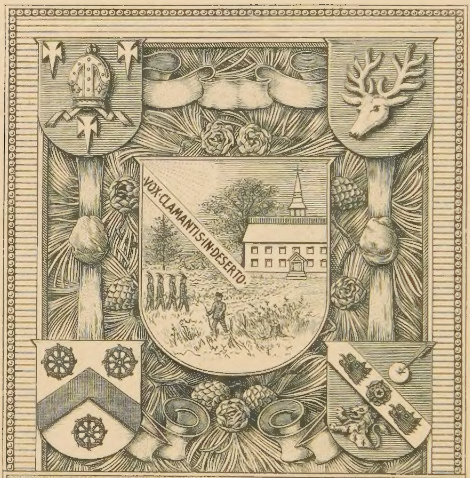

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JUVENILE COURTS IN THE UNITED STATES

By

HERBERT H. LOU, Ph. D.

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TO

MY GRANDFATHER

PREFACE

The American juvenile court is a subject on which many books might be written from different points of view and approaches. It is not the purpose of this study to advocate any particular theory, nor is its purpose to solve unsolved problems, or to furnish a statutory summary or statistical tabulation, or to describe case stories. Some of these phases still remain to be studied, while others are already covered by existing treatises. This book is designed to present a critical account of the juvenile court in all of its more important aspects—philosophical, legal, historical, diagnostic, procedural, administrative, and sociological. It aims to explain its principles, its development, its present status, its forms of organization, its actual working, and its significant tendencies.

A thorough examination of the whole juvenile-court movement is, I believe, pertinent and timely, especially when there is so much discussion of so-called "crime waves" and of the inefficiency of the existing legal methods which cope with them. This treatise aims not only to present a fair picture of this quarter-century old institution and to contribute toward a better understanding of the subject, but also to point out instrumentally, though incidentally, a possible way to a better handling of adult offenders in criminal courts.

The study enters a field of social knowledge and social organization in which a tremendous body of scientific information has developed during recent years. Universities, training schools for social workers, and numerous other agencies have shown an ever-increasing interest in the study of the problems of the child. Because of this, a better understanding of both the child and his behavior is much more possible now than ever before. Although the purpose of this book is primarily to analyze the machinery, legal and social, with which we handle children's problems, it would be of little value and incomplete without some reference to the causations and the prevention of delinquency and other abnormalities of children. For this reason, I have deemed it necessary to include in this study much that relates to the sociological and psychological aspects of the juvenile court.

A book of this nature does not pretend to be an exhaustive treatise. Much descriptive material and many statutory citations are purposely omitted. No attempt has been made to quote legal cases except those which are important and typical of others.

The successful working of the juvenile court demands the coexistence of many separate laws relating, for example, to adoption, guardianship, separation and divorce, desertion and non-support, illegitimacy, mental defect, maternity aid, child labor, compulsory education, mothers' pensions, contributing to the delinquency or dependency of children, offenses against or involving children, and child-caring agencies and institutions. Except adult contributory laws, few of these are embodied in the juvenile-court law itself. All of them, however, should be harmoniously correlated and coordinated.

Acknowledgment of my obligations is due to a number of authorities on the subject, whose advice I have sought and whose assistance has undeniably contributed to the improvement and the completion of this study. To Miss Katharine F. Lenroot of the United States Children's Bureau I wish to express my deep gratitude for reading my manuscript and for invaluable criticism and suggestions throughout the study. To Mr. Bernard Flexner of the New York bar I am very grateful for his scholarly counsel and constructive suggestions. I feel deeply indebted to Mr. Charles L. Chute and Mr. Francis H. Hiller of the National Probation Association, who have read my manuscript, have checked some technical details, have offered many helpful suggestions, and have permitted me to examine their not yet published tabular summary of laws relating to juvenile courts and probation. To all of them I am also indebted for their writings on the subject, which I have freely used in my book and of which I have not been able to make acknowledgments at every point. To Dr. Bess V. Cunningham of Teachers' College, Columbia University, I am grateful for reading the sections of the manuscript which deal with the clinical aspect of the juvenile court, and for her valuable suggestions for their improvement. Likewise, I am indebted to Professor Henry W. Thurston of the New York School of Social Work and Dr. Hastings H. Hart of the Russell Sage Foundation for reading parts of the manuscript and for their helpful assistance in my work. Above all, I wish to express my sincere thanks to Professor Raymond Moley of the Department of Public Law of Columbia University, formerly Director of the Cleveland Foundation, for his constant encouragement, guidance, and assistance at every stage of my work. I wish it were possible to acknowledge in this place my obligations to officials of public departments, judges, probation officers, and others, who have generously answered my requests for information and opinion, but space does not permit me to name them all and many of them would probably prefer not to be thanked publicly. It is doubtless unnecessary for me to add that none of the persons who have helped me is responsible for the imperfections of my book.

H. H. L.

New York City
May, 1927

JUVENILE COURTS IN THE UNITED STATES

Chapter I

PHILOSOPHY OF THE JUVENILE COURT

1. *THE SPIRIT OF SOCIAL JUSTICE*

THE traditional administration of criminal justice is characterized by the theories of retribution, of determent, and of law as an inflexible body of rules. This attitude of hostility toward the lawbreaker and this supposedly impartial and impersonal character of justice, as Professor George H. Mead has said, provide no principles for the eradication of crime, for returning the delinquent to normal social relations, or for stating the transgressed rights and institutions in terms of their positive social functions.[1] They are the causes of many absurdities and distortions in the criminal law. They accomplish neither legal justice nor social good. This is why the traditional administration of criminal justice—police organization, prosecuting machinery, courts, bar, and penal treatment—spectacularly fails in the repression and suppression of crime.

Law is a living social institution, and there is no reason why it should not keep pace with the progress of the modern social sciences and incorporate and utilize the ideas, the methods, and the morals developed therein. It would seem strange if our criminal law, our law courts, and court procedure were still clinging to the medieval sentiments of vengeance despite the tremendous advances that have been made in these sciences. With the advent of the sociological school of jurisprudence of the present century, which advocates the unification of all social sciences, of which law is but one, law is no longer regarded as a self-centered, self-sufficing science, isolated from the other social sciences. We are realizing more and more that law should be conceived as a means toward social ends. This new conception of law compels us to take account of social causes and social effects in relation to social conditions and social progress. This is sometimes called social justice.[2]

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[1] G. H. Mead, "The Psychology of Punitive Justice," *Amer. Jour. Sociol.*, 23:590, March, 1918.

[2] *Cf.* Roscoe Pound, "The Scope and Purpose of Sociological Jurisprudence," *Harvard Law Rev.*, 25:140-168, December, 1911; 25:489-516, April, 1912.

The juvenile court is conspicuously a response to the modern spirit of social justice. It is perhaps the first legal tribunal where law and science, especially the science of medicine and those sciences which deal with human behavior, such as biology, sociology, and psychology, work side by side. It recognizes the fact that the law unaided is incompetent to decide what is adequate treatment of delinquency and crime. It undertakes to define and readjust social situations without the sentiment of prejudice. Its approach to the problem which the child presents is scientific, objective, and dispassionate. The methods which it uses are those of social case work, in which every child is studied and treated as an individual.

These principles upon which the juvenile court acts are radically different from those of the criminal courts. In place of judicial tribunals, restrained by antiquated procedure, saturated in an atmosphere of hostility, trying cases for determining guilt and inflicting punishment according to inflexible rules of law, we have now juvenile courts, in which the relations of the child to his parents or other adults and to the state or society are defined and are adjusted summarily according to the scientific findings about the child and his environments. In place of magistrates, limited by the outgrown custom and compelled to walk in the paths fixed by the law of the realm, we have now socially-minded judges, who hear and adjust cases according not to rigid rules of law but to what the interests of society and the interests of the child or good conscience demand. In place of juries, prosecutors, and lawyers, trained in the old conception of law and staging dramatically, but often amusingly, legal battles, as the necessary paraphernalia of a criminal court, we have now probation officers, physicians, psychologists, and psychiatrists, who search for the social, physiological, psychological, and mental backgrounds of the child in order to arrive at reasonable and just solutions of individual cases. In other words, in this new court we tear down primitive prejudice, hatred, and hostility toward the lawbreaker in that most hide-bound of all human institutions, the court of law, and we attempt, as far as possible, to administer justice in the name of truth, love, and understanding.

2. *CHANCERY ORIGIN OF THE COURT*

The juvenile court or, as it is sometimes termed, children's court is of comparatively recent origin, but the legal principles underlying it may be traced far back into Anglo-

American jurisprudence and legal history. While in some instances these principles have been greatly extended and modified, their primary basis is the common law. The juvenile court should be looked upon as a growth in legal theory and not as a departure therefrom.

The first common law basis of the juvenile-court legislation is the idea of chancery or equity. The common-law doctrine that the state or its agent, the court, is the ultimate parent of all such minors as require its care and protection is very ancient in origin. It looks back to the feudal times in England when the crown, through the *inquisitio post mortem*, assumed supervision over the estates of minors in order to realize the fruits of tenure and of livery to the overlord. This was succeeded by the court of wards and liveries in the time of Henry VIII,[1] which continued to exercise such jurisdiction until its abolition in 1660.[2] The feudal system having run its course and the common law having transformed the feudal duties of the overlord toward his vassals into the legal duties of the king toward his subjects, the jurisdiction of this court was transferred to the court of chancery, through which the king, as we are told by Blackstone, in his capacity of *parens patriæ* assumed the general protection not only of infant tenants but of all infants in his kingdom, through the keeper of his conscience, his chancellor.[3]

The development of the English law investing the crown as *parens patriæ* with supreme guardianship over infants and investing courts of chancery with equity jurisdiction over the persons and estates of minors is fully set forth in the leading case of *Eyre* v. *Shaftsbury*,[4] decided in 1772. In this case, Lord Jekyll enunciated the general doctrine, which has been unanimously accepted by his successors. He said:

> The care of all infants is lodged in the king as *parens patriæ*, and by the king this care is delegated to his Court of Chancery. . . . Idiots and lunatics, who are incapable to take care of themselves, are provided for by the king as *parens patriæ*; and there is some reason to extend this care to infants.

This common-law doctrine, repeatedly asserted by the court of chancery in exercising its equity jurisdiction from earliest beginnings of English legal history, became thus a part of the British system of govenment and jurisprudence.

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[1] 32 Hen. VIII, c. 46; 33 Hen. VIII, c. 22.

[2] 12 Car. 2, c. 24, s. 3.

[3] Blackstone, *Commentaries*, III, secs. 426-428; Story, *Equity Jurisprudence*, II, sec. 1333. See the recent case of Ex parte Daedler, 194 Cal. 320 (1924).

[4] 2 Peere Williams 103. For the case and notes on it, see White and Tudor, *Leading Cases in Equity*, 8th ed., Vol. I, pp. 473-534.

The essential idea of chancery is welfare or balancing of interests. It stands for flexibility, guardianship, and protection rather than rigidity and punishment. The common-law doctrine that the crown is *parens patriæ*, father of his country, is but the medieval way of expressing what we mean today when we say that the state is the guardian of social interests.[1]

Although the court of chancery has been vested with the authority to protect the person as well as the property of its infant ward, the court for many generations failed to exercise its power to control and protect the person of the minor unless property rights were also involved. The contention that the juvenile jurisdiction of the court of chancery was based on property alone is unsupported by authority. It has been generally held that the property element limited only the exercise of jurisdiction, not the jurisdiction itself. The jurisdiction of the court of chancery in cases on behalf of children was not confined to those in which there was property, but the court could exercise this jurisdiction only where it had the means of applying property for the maintenance of the infant.[2]

With the independence of the American colonies, and the transplanting of the English common-law system, the state in this country has taken the place of the crown as the *parens patriæ* of all minors. When courts of last resort have been called upon to construe the laws, through which the state assumed its rights to control the custody of the child, they have almost uniformly upheld these rights on the broad principle that the courts, as agents of the state, are exercising a power derived from the court of chancery of England, which held from early times that such rights existed where the welfare or property of the child was at stake.[3]

That the juvenile court is of chancery origin has been stated by many writers on the juvenile court[4] and has been affirmed by the overwhelming weight of opinion of courts of last resort. It has been generally maintained that the juvenile court is but an embodiment in the law and in a specific institution of an ancient doctrine and of modern methods in the exercise of the power of the state as the ultimate parent of the child.

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[1] Roscoe Pound, *The Spirit of the Common Law*, p. 68.

[2] Wellesley *v.* the Duke of Beaufort, 2 Russ. 1 (1827); Wellesley *v.* Wellesley, 2 Bligh N. S. 124 (1828); in re Spence, 2 Ph. 247 (1847).

[3] See, for example, Ex parte Crouse, 4 Wharton 9 (Pa. 1839); Cowles *v.* Cowles, 3 Gil. 435 (1846); Milwaukee Industrial School *v.* Supervisors of Milwaukee Co. 40 Wis. 328 (1876); Whalen *v.* Olmstead, 61 Conn. 263 (1891); In re Ferrier 103 Ill. 367 (1882).

[4] See, for example, Bernard Flexner, "The Juvenile Court—Its Legal Aspect," *Annals Amer. Acad.*, 36:49-56, July, 1910; J. W. Mack, "Legal Problems Involved in the Establishment of the Juvenile Court," in *The Delinquent Child and the Home*, by Breckinridge and Abbott, pp. 181-201; Bernard Flexner and Reuben Oppenheimer, "The Legal Aspect of the Juvenile Court," U. S.

3. *CRIMINAL ORIGIN OF THE COURT*

The English court of chancery, it should be noted, dealt entirely with children whom we designate variously and sometimes interchangeably as "neglected," "dependent," or "destitute." The doctrine of the state as *parens patriæ* was recognized as applying to this class of children for many years in many of the states in this country. When juvenile-court laws were enacted by the various states, the same doctrine was extended to delinquent children. The court undertakes to apply the same procedure to the delinquent as it would to the neglected. The inclusion of delinquent children has been generally accepted as merely a logical extension of the principle of chancery and of guardianship which was applied in the court of chancery.

It may seem strange that while the legal basis of the juvenile court rests upon the equity jurisdiction of the court of chancery in dealing with neglected children, it is really in dealing with delinquent children that the new and distinctive features of the juvenile court appear. It is mainly because of this departure that the chancery basis of the juvenile court has given rise to some dissension. For instance, Edward Lindsey stated that the decisions of the courts, which have upheld the constitutionality of the juvenile-court acts, were due to the influence of public opinion favoring this legislation, that the chancery theory of the juvenile court is entirely erroneous since very different principles are involved, and that the only logical theory for its complete justification is the extreme socialistic theory of the functions of the state.[1] Judge Edward F. Waite held that the juvenile-court legislation is an innovation and charged that "there has been some looseness on the part of the text writers and judicial opinions in passing too easily from the immemorial chancery or parental attitude toward dependent and neglected children to the compara-

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Children's Bureau, *Pub.* 99, p. 7. Numerous cases in courts of last resort, covering almost all phases of juvenile-court legislation, are cited in the last-named monograph, for the use of which the writer is indebted to its authors.

[1] Edward Lindsey, "The Juvenile-Court Movement from a Lawyer's Standpoint," *Annals Amer. Acad.*, 52:143-145, March, 1914.

tively modern assumption of the same attitude toward delinquents."[1] Dean Roscoe Pound, in discussing what judicial empiricism has done for the common law, remarked that the jurisdiction of equity exercised by the court of chancery over infants was not a factor in creating the juvenile court, which, he said, arose mainly on the side of the criminal law. He stated that the establishment of the juvenile court was chiefly due to the initiative of a few definitely known socially-minded judges, and that they had no chancery idea at the time but merely tried to reconcile the court with historical legal dogmas after its establishment.[2]

From the standpoint of the delinquency jurisdiction of the juvenile court, it has often been held that the court is founded on the theory of the common-law age of criminal responsibility. It is a fundamental maxim of the common law that no person can be guilty of a crime unless he did the act complained of with a *mens rea*, a guilty mind. A child under seven years of age has been treated as being *doli incapax*, that is, incapable of felonious intent. The existence of a guilty mind, so as to render a child between seven and fourteen years of age criminally responsible, may be established by evidence that the youthful offender is of such intelligence as to understand the nature and consequences of his misconduct and to appreciate that it was wrong.[3] Legal guilt itself thus depends upon a psychological condition; and this, in turn, depends partly upon age. The age limit below which there was no criminal responsibility has been modified and extended by statutes from time to time both in this country and in England. For this reason, it has sometimes been held by some authorities that by extending the jurisdictional age the legislation creating the juvenile court has merely carried this idea forward and widened the application of the common-law rule.[4]

The theory of the juvenile court, which stresses the moving forward of the common-law age of criminal responsibility, cannot be pushed to its logical conclusion. No one can doubt for a moment that an adolescent of eighteen or even twenty-one years of age is responsible, at least to a limited degree, for his acts, if all human conduct is not taken as something caused. Both crime and delinquency are based upon intent, for the juvenile court has retained that element at least in the distinction between delinquency and dependency or neglect. The only difference seems to lie in the question whether or not the state, as a policy, desires to stigmatize those who offend against the law as being criminal and to prescribe different methods of treatment in order to achieve the end in view.[1] Moreover, whereas in the common law no provision was made for those below the age of responsibility, provision was made in the juvenile-court law for all of these under the less opprobrious name "delinquents." Responsibility does not necessarily go with punishment, for the juvenile-court law recognizes responsibility, but the weapons which it uses are reformation, protection, and education rather than punishment.

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[1] E. F. Waite, *The Origin and Development of the Minnesota Juvenile Court*, p. 12.

[2] Roscoe Pound, *Interpretations of Legal History* (Cambridge, 1923), p. 135.

[3] Hale, *Pleas of the Crown*, I, secs. 25-27; Blackstone, *Commentaries*, IV, secs. 23-24.

[4] *Cf.* Bernard Flexner and R. N. Baldwin, *Juvenile Courts and Probation*, p. 8.

It is a doubtful conclusion that the juvenile court is either wholly of chancery origin or wholly of criminal origin. If we believe the theory that all human institutions can be traced to their origins, it seems that the neglect or dependency jurisdiction of the court is largely based on the parental aspect of the English chancery law, but its delinquency jurisdiction arose mainly on the side of the criminal law. There may be some historical reason for ascribing the basis of delinquency jurisdiction to the legal fiction of the age of criminal responsibility, yet its logical justification seems to lie in the recognition of the failure of the older criminal courts to prevent crime and in the experimentation in judicial methods and procedure. It is an attempt to relieve juvenile offenders under certain circumstances from the rigidity of the law prevailing in courts of more general jurisdiction. The view that chancery jurisdiction is not a factor in creating the juvenile court is correct as to the delinquency jurisdiction, but it does not preclude the view that the chancery principle has been extended to the delinquency jurisdiction of the juvenile court as a legislative policy rather than as a legal dogma.

4. *RIGHT TO CUSTODY OF CHILDREN*

Upon whatever legal basis the juvenile court may be founded, the primary and definite legal question at issue is, in most instances, the right of the court to control the custody of the child. With the advent of juvenile courts possessing broad discretionary powers to commit children to institutions upon the ground that the welfare of the child demands an assumption by the state of parental control, a determination of the nature and extent of the rights of parents to the custody of their children becomes of vital importance in any discussion of the legal principles which underlie the juvenile-court legislation.

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[1] *Cf.* E. H. Sutherland, *Criminology*, pp. 19-20, 307-308.

There were disputes over the question of the right to the custody of children not only on historical grounds, as we have noted already, but also on theoretical grounds. The theoretical objection to the right of the state to the custody of children is generally based on the theory of natural rights of parental custody of children. It has been contended that the parent is entitled to the control, custody, and education of his child as against the whole world. In opposition to this view is the opinion that the status of infancy is a creation of the state, either by acceptance of the common law or by special statutory enactment.[1] Parental custody, it is held, is merely a privilege or duty conferred upon the parent in the exercise of the police power of the state.[2] In theory, all persons in the status of infancy are wards of the public, and the public has delegated the power of raising and caring for them, in sacred trust, to their parents. The parents, representing the state and having custody of the children in trust, owe a duty to the public to act as guardians of infant citizens for the state. The state can enforce that duty by deposing them as guardians and by putting the infants at the common guardianship of the community, if public good requires.[3]

Whether the rights of the parents are superior to those of the state or whether the state occupies the position of primary parent, it has been well conceded that the welfare of the child is the paramount consideration, and, in the matter of custody, this principle governs court decisions. The common-law right of parental control is a natural but not an inalienable one and is subject to the ordinary legislative power, unless that power is limited by some constitutional prohibition. It is no longer unlimited, but continues only so long as it is properly exercised. On the other hand, it is a generally recognized principle that, in case of neglect, before the state can interfere with the parental right of custody, it must be proved not only that the child is in a condition within the provisions of the law, but also that the parent or legal guardian is incompetent or has criminally neglected or failed to care for the child and failed to provide the training and education contemplated and required by both law and morals. Of course, in case of delinquency, except when it is akin to a case of neglect, which is not always distinguishable from the former, especially when young children are involved, it is sufficient to show a condition of delinquency on the part of the child and it is not necessary to prove the failure on the part of the parents, at least under most laws.

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[1] See notes on "Rights of Parents to Custody of Children," *Columbia Law Rev.*, 6:454-456, June, 1906.

[2] C. G. Tiedeman, *Limitations of Police Power* (St. Louis, 1886), sec. 166.

[3] For this view see Wellesley *v.* Wellesley, 2 Bligh N. S. 124 (1828); Nugent *v.* Powell, 4 Wyo. 173 (1893).

The tendency of American courts has been to repudiate the notion that there can be such a thing as proprietary right to or interest in the custody of an infant, and to override all technical objections whereby custody is awarded irrespective of the true merits of the case. The result seems to be in harmony with the nature of the proceedings in the juvenile court and the tendency of the law to compel parents to perform, as far as possible, their duties to the public and their children; the state displaces them only when the welfare of the child demands.

5. *CONSTITUTIONAL PRINCIPLES INVOLVED*

Along with the English common law, as we have observed before, chancery jurisdiction and procedure were transplanted to America. The sovereign states, assuming the prerogatives and obligations of the crown, from the very beginning have been constantly enlarging the protective and summary jurisdiction for the protection and care of individuals abnormal in person or unfortunate in environment. The culmination of various statutory efforts concerning the care and protection of children has been the enactment of juvenile-court laws and the establishment of a definite judicial machinery known as the juvenile court.

In order to clear up possible misconceptions of the law by the judge or the public and to establish with more certainty the principle upon which similar laws have been generally held to be constitutional, a clear statement of the purpose of the act and of the construction to be put upon it is usually set forth in the preamble or a separate clause of the law. Beginning with the Illinois and Colorado laws, most of the juvenile-court laws have provided for liberal construction of the statute to the end that the care, custody, and discipline of children should approximate as nearly as possible that which should be given by their parents, and that they should not be treated as criminals but as children in need of aid, encouragement, and guidance.

With this end in view, the courts have taken pains to formulate principles upon which juvenile-court legislation has been established, and to answer various attacks on constitutional grounds. The most fundamental principle of the juvenile court—that ~~juvenile~~-court acts are not criminal in their nature, because their purpose is not to punish but to save the child—has been almost universally affirmed by courts of last resort. If they are not of a criminal nature, they are not unconstitutional because of their non-conformance to certain constitutional guarantees, usually contained in the bill of rights, in favor of persons charged with crime. Accordingly, they have been upheld against such constitutional departures as the deprivation of liberty without due process of law, the violation of the right to trial by jury, the denial of the right of appeal, the imposition of unequal penalties, or the deprivation of the equal protection of the law. They have also been sustained against further constitutional departures—largely in the matter of the form of enactments—as the creation of a new court, class legislation, local or special laws, the embracing of more than one subject, the lack of definiteness, or the conferring of executive powers on judicial officers.[1] On the whole, the courts have liberally construed these various constitutional points so as not to defeat the purpose of the juvenile-court law.

It would be impracticable to comment on or even to cite all the cases around which a wealth of learning has grown, but a few of them, typical and illustrative of all others and involving the fundamental legal philosophy of the juvenile court, may well be referred to.

The first case cited and quoted in the numerous subsequent cases throughout the country as an authoritative exposition of the constitutional position of juvenile courts is *Common-*

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[1] The constitutionality of juvenile-court acts has been upheld in the following leading cases embodying with greater or less fulness these various fundamental principles: Ex parte Loving, 178 Mo. 194 (1903); Commonwealth *v.* Fisher, 213 Pa. 48 (1905); Mill *v.* Brown, 31 Utah 473 (1907); In re Sharp, 15 Idaho 120 (1908); Robison *v.* Wayne Circuit Judges, 151 Mich. 315 (1908); Nicholl *v.* Koster, 157 Cal. 416 (1910); Marlowe *v.* Commonwealth, 142 Ky. 106 (1911); Ex parte Januszewski, 196 Fed. 123 (1911); In re Powell, 6 Okl. Cr. Rep. 495 (1912); Lindsay *v.* Lindsay, 257 Ill. 328 (1913); State *v.* Burnett, 179 N. C. 735 (1920); State *v.* Buckner, 300 Mo. 359 (1923); Cinque *v.* Boyd, 99 Conn. 70 (1923); Ex parte Daedler, 194 Cal. 320 (1924); Hills *v.* Pierce, 113 Ore. 386 (1924). But see Hunt *v.* Wayne Circuit Judges, 142 Mich. 93 (1905); People *v.* Friederich, 185 Pac. 657 (Colo. 1919); Lynn *v.* Bullock, 189 Ky. 604 (1920).

wealth v. *Fisher.* In answering the constitutional objections as to the power of the legislature to enact the law and to deprive the person of his liberty without due process of law, the Pennsylvania Supreme Court expressed the following opinion:

> To save a child from becoming a criminal, or from continuing in a career of crime, to end in maturer years in public punishment and disgrace, the legislature surely may provide for the salvation of such a child, if its parents or guardian be unable or unwilling to do so, by bringing it into one of the courts of the state without any process at all, for the purpose of subjecting it to the state's guardianship and protection. . . . When the child gets there and the court, with the power to save it, determines on its salvation and not its punishment, it is immaterial how it got there.

The law was also attacked on the ground that no jury trial was provided. On this point the opinion of the court recited:

> The act is not for the trial of a child charged with crime, but is mercifully to save it from such an ordeal, with the prison or penitentiary in its wake. . . if the child's own good and the best interests of the state justify such salvation. Whether the child deserves to be saved by the state is no more a question for a jury than whether the father, if able to save it, ought to save it.

In the case of *Ex parte Januszewski*, a federal district court upheld the juvenile-court law of the state of Iowa chiefly on the ground that it is a valid exercise of the police power of the state. The opinion of the court ran, in part, as follows:

> It is of the same nature as statutes which authorize compulsory education of children, the binding of them out during minority, the appointment of guardians and trustees to take charge of the property of those who are incapable of managing their own affairs. The welfare of society requires and justifies such enactments. The statute is neither criminal nor penal in its nature, but an administrative police regulation.

A recent case illustrating the character of the juvenile-court legislation is *Cinque* v. *Boyd.* The opinion of the Connecticut court in this case is one of the most comprehensive declarations on the subject. It is fully in harmony with the most enlightened view of the courts of the various states. In answering the various constitutional objections against the equity procedure in juvenile courts, the court said:

> It is not necessary to repeat the extended summary of the act before made, or to refer specifically to any of its particular provi-

sions, to demonstrate that the act was intended to constitute a court which should conduct a civil inquiry, to determine whether, in a greater or less degree, some child should be taken under the direct care of the state and its officials to safeguard or foster his or her adolescent life, and not conduct a criminal prosecution, nor to attach to the enforcement of the provisions of the act any sanction of a criminal nature. . . . If such courts are not of a criminal nature, they are not unconstitutional because of the nature of the procedure depriving persons brought before them of certain constitutional guarantees in favor of persons accused of crime. This principle has been recognized in many states where juvenile courts exist, and only in one state (Texas[1]) has such an act been held entirely void, while in Missouri the invalidity of the act was based upon the statute in relation to constitutional provisions regarding courts.[2]

The principles enunciated in the cases cited above are necessary for any adequate understanding of the character and trend of recent legislation and judicial decision with respect to the subject of juvenile courts. The fundamental principle of decision running through them all is that the inquiries conducted by juvenile courts are not criminal trials.

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[1] This refers to *Ex parte Pruitt*, 82 Tex. Cr. Rep. 394 (1917). The law was invalidated on the ground that it authorized the court to fix punishment which should be named by jury.

[2] This refers to *State* v. *Tincher*, 258 Mo. 1 (1914). The law was invalidated on the ground that it violated the constitutional provisions that jurisdiction of probate courts should be uniform and that it denied due process of law—indictment by grand jury, trial by jury, etc.—making it impossible to have in Missouri a juvenile-court law bringing delinquent children under chancery practice.

Chapter II

HISTORY OF THE JUVENILE COURT

1. *BACKGROUND OF JUVENILE-COURT LEGISLATION*

The early courts dealt only with neglected and dependent children, with children whose custody rival claimants sought, and with children who were charged with specific offenses. In general, dependent and neglected children have had much less to do with the juvenile-court movement than the delinquent child. The movement was started principally as a protest against the inhumane attitude of the criminal law, and the court that administers it, toward offending children, and only incidentally as a protest against the unorganized charity work of private agencies and the unsatisfactory state provision for the care of neglected and dependent or destitute children.

Various attempts have been made from the early days of English and American history to save offending children from the rigidity of the common law, but the history of law discloses that such attempts were only sporadic and in many instances have accomplished very little.

Stuart Garnett in his book, *Children and the Law*, tells us that as early as the tenth century, the Saxon King Athelstane not only attempted the reformation of juvenile offenders but enacted a certain law which embodied some of the germs of modern juvenile-court legislation, and especially of probation.[1] But there are few records of any children who were accorded the privilege of this and subsequent statutes. From the tenth century until the reign of Henry VIII very little is known of the law affecting children. All through the Middle Ages, true to the general tendency in the criminal law of the time, offending children were treated with great severity which reaches its climax in the seventeenth and eighteenth centuries. A child of eight years, who had "with malice, revenge, craft and cunning" set fire to a barn, was convicted of felony and duly hanged. One boy of ten, who confessed to have murdered his bed-fellow, was condemned to death and "all the judges agreed to the imposition of this penalty because the sparing of this boy simply on account of his tender years might be of dangerous consequence to the public by propagating a notion that children might commit such atrocious crimes with impunity." Another boy of ten was sentenced to death because it appeared that he hid the body he had killed, which hiding manifested a consciousness of guilt and a discretion to discern between good and evil.[1] As late as 1833 a death sentence was pronounced, but fortunately not carried out, upon a child of nine who broke a glass and stole two-pennyworth of paint.[2] Many other cases of hanging children of tender years during the last century may be cited.[3]

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[1] W. H. S. Garnett, *Children and the Law* (London, 1911), pp. 137-138.

The history of modern treatment of juvenile offenders had its rise during the period of industrial revolution and of the religious and moral revival at the beginning of the nineteenth century. It is more or less directly connected with the factory legislation in favor of women and children and the development of the woman movement in general. The first part of the nineteenth century, however, witnessed the movement for the reform of the adult criminal and the crusade against slavery, a controversy so all-absorbing that little reforming energy could be spared for the cause of "juvenile criminals," which did not sufficiently obtrude itself upon the public attention. It was not until the close of the first half of the nineteenth century that the conscience of the public seems to have been exercised over the question of "juvenile crime". It is about this time that the first juvenile reformatories were established and some of the important features of the modern juvenile-court legislation made their appearance.

Although the juvenile court is largely an American institution, the legislative recognition of the desirability of differentiating the method of trial of an adult criminal from that of a juvenile delinquent, before there was a juvenile court in the United States, was not wanting in some other countries. In England the first recognition was contained in the Juvenile Offenders' Act of 1847, amplified and amended by the Summary Jurisdiction Act of 1879, which still governs the trial of children under fourteen and "young persons" between fourteen and sixteen and gives the justices power to try summarily such juvenile delinquents for all offenses other than homicide.[1] In Switzerland an ordinance of May 5, 1862, dealing with penal procedure, provided that publicity must be limited in cases against young persons and that such cases, "unless grown-up persons are likewise involved, shall be heard apart." This law was followed by a law of July 17, 1872, which provided that a child under fourteen charged with having committed an offense cannot be penally prosecuted on that charge.[2] In Australia children's courts were not established in several of the commonwealths until recently. But children's courts, although not under that name, were practically provided in South Australia by a ministerial order in 1889, legalized by the State Children Act of 1895, which provided, among other things, for probation and separate hearing of charges against children under eighteen years of age in a room other than the public court room, to be approved by the Chief Secretary. In Canada, juvenile courts were not officially established until 1909, the first in the city of Winnipeg, in accordance with the National Juvenile Delinquents' Law passed in 1908, but in some parts of Canada children were dealt with differently from adults since 1894. This was made possible by a provision in the Children's Protection Act, which allowed a commissioner to try certain cases under that act in the judge's chambers for the purpose of protecting the child from unnecessary publicity.[3]

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[1] Blackstone, *Commentaries*, IV, secs. 23-24.

[2] W. C. Hall, *Children's Courts*, p. 33.

[3] See, for example, H. T. Waddy, *The Police Court and Its Work* (London, 1925), pp. 104-107. In New Jersey in 1828 a boy of thirteen was hanged for an offense committed when twelve years of age.

The systematic development of the idea of the juvenile court, however, has taken place in the United States. The various steps which led to the creation of the juvenile court began in the first half of the nineteenth century. The idea of certain features of a juvenile court, such as that of separate confinement, separate hearings, and probation, had been influencing American jurisprudence for many years prior to the advent of the juvenile court.

The attention of reformers was at first directed not to the modification of court procedure and the prevention of the conviction of the child for an offense but to the idea that after conviction he should be kept in confinement apart from adult criminals. This idea gave rise to reformatories for juvenile offenders, which existed in the United States as early as 1825 when the so-called House of Refuge was established in New York. Similar institutions were established in Pennsylvania in 1828, and in Massachusetts in 1847. Many other states followed suit and established under various names juvenile institutions to which children after conviction might be committed for correction and education. In some states the confinement of juvenile offenders in penitentiaries was definitely prohibited by law except for serious offenses. Usually juvenile offenders might still be sent to reform schools or to city prisons or county jails at the discretion of the court and, for serious offenses, to state reformatories. As far as arrest, detention, and trial were concerned, a delinquent child was subject to almost all the criminal processes applicable to adult offenders.

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[1] Hall, *op. cit.*, p. 14.

[2] *Ibid.*, pp. 218-219.

[3] It should be noted that in Canada the authority for punishing crime and determining what crime is, is under the federal government. The provinces have only the authority to touch areas outlined by the British North America Act or other areas that the federal authorities have not touched. Therefore, it was necessary for the federal government to declare the possibility of a juvenile court and to change the punishment meted out to juvenile offenders for the various offenses committed, but the provincial authorities have the sole right to create the courts.

The earliest step in modification of court procedure in children's cases in the United States was not taken until the seventies. A Massachusetts law of 1869[1] provided for the presence of the visiting agent or officer of the state board of charity at the trial of juvenile cases. It provided that he should be notified of every criminal action against a child under sixteen and should have an opportunity to investigate their cases, to attend their trials, to protect their interests, and to make such recommendations to the judge as might seem best. By a law of 1870,[2] separate hearings were required for the trial of the juvenile offender in courts in the county of Suffolk (mainly Boston) and a law of 1872[3] extended the requirements to the police, district, and municipal courts of the state and authorized the governor to designate and commission as "trial justices of juvenile offenders" such number of justices of the peace as the public interest and convenience might require to try children's cases. A law of 1877[4] not only authorized separate trial of children's cases but also used, perhaps for the first time, the term "session for juvenile offenders," of which session a separate record and docket should be kept.

Massachusetts precedents for separate trial of juvenile offenders were followed in a few other jurisdictions. New York, for instance, passed a somewhat similar and more concise law in 1877,[1] put forth by the Society for the Prevention of Cruelty to Children in New York City, prohibiting the placing of any child under sixteen "in any prison or place of confinement, or in any court room or in any vehicle in company with adults charged or convicted with crime, except in the presence of proper officers."

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[1] Laws of Massachusetts, 1869, ch. 453.
[2] *Ibid.*, 1870, ch. 359.
[3] *Ibid.*, 1872, ch. 358.
[4] *Ibid.*, 1877, ch. 210.

Massachusetts also took the lead in establishing a probation system, a cardinal feature of work with young offenders, by which the offender was placed under supervision instead of confinement. Prior to the formal recognition of probation, the statutory provisions for reformation of offenders were chiefly institutional. Under the common law the court could suspend a sentence temporarily for various reasons. Its practice in Massachusetts, antedating the statutes, can be traced to 1830. By a law in 1878,[2] limited to Boston, followed by another in 1880[3] which was state-wide in operation, the first probation system without restriction as to age in any country was legally established as a juridical policy.[4] In 1891[5] there was a general revision of the preceding acts, making the appointment of probation officers mandatory and transferring the power of appointment from the local authorities to the courts. These statutes have been chiefly the record of an accomplished practice, extending its legal effect into a uniform system.

Probation in a somewhat modified and limited form, though not under that name, was also adopted in a few other states in the latter part of the nineteenth century. In 1861 the mayor of Chicago was authorized by law[6] to appoint a commissioner before whom boys between the ages of six and seventeen could be brought on charges of petty offenses. This commissioner was given authority to place the boys under supervision and to send them to reform schools. In 1867[7] this work was transferred to the regular judges in the courts. Michigan, in 1873,[8] established a state agency for the care of juvenile offenders, which in its powers and duties greatly resembles that of the probation officers. In that year the governor was authorized to appoint in each county for the State Board of Charities and Corrections an agent to have charge of delinquent boys under sixteen and girls under seventeen paroled by the court, and also of dependent children committed to institutions or placed out in families. A New York law of 1884 [1] provided that when a person under the age of sixteen years was convicted of a crime he might, in the discretion of the court, instead of being sentenced to fine or imprisonment, be placed in charge of any suitable person or institution willing to receive him.

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[1] Laws of New York, 1877, ch. 428.

[2] Laws of Massachusetts, 1878, ch. 198.

[3] *Ibid.*, 1880, ch. 129.

[4] F. W. Grinnell, "Probation as an Orthodox Common Law Practice in Massachusetts Prior to the Statutory System," *Mass. Law Quart.* 2:591-639 August, 1917.

[5] Laws of Massachusetts, 1891, ch. 356.

[6] Private Laws of Illinois, 1861, p. 149.

[7] *Ibid.*, 1867, p. 31.

[8] Compiled Laws of Michigan, 1897, secs. 2260-2266.

During the last decade of the nineteenth century in a number of states statutes were enacted which were the immediate precedents of the Illinois juvenile-court legislation. For example, in 1892 New York [2] added a new section to the Penal Code, allowing separate trial, separate docket, and separate record for cases of children under sixteen. The Board of Children's Guardians Law of Indiana, passed in 1891 [3] and amended in 1893, [4] authorized the Board of Children's Guardians to file a petition in the circuit court if it should have probable cause to believe that any child under fifteen years of age was one whom we usually designate now as dependent, neglected, truant, incorrigible, and sometimes delinquent. If the findings of the court were true, the child should be committed to the custody and control of said Board of Children's Guardians until such child should become of age. Rhode Island, following the general line of the Massachusetts acts, provided by law in 1898 [5] for separate hearings of juvenile offenders, the presence of state and private agencies at their trial, and separate detention before trial.

From what we have described above, we know that before the enactment of juvenile-court legislation persistent efforts were made in the various states to save offending children from the horrible ordeals to which children of tender years were subjected in the criminal courts in the last century. We know that in some places there was juvenile probation, there were separate hearings for children, and there was institutional care for children. What was lacking was the conception that a child that broke the law was to be dealt with by the state not as a criminal but as a child needing care, education, and protection. Whatever solicitude for the welfare of children had been professed in these early laws, children who came into conflict with the law were tried for the commission of a specific crime and were treated as adults with all the formalities of the criminal law and constitutional safeguards in order to vindicate the dignity and majesty of the state. There was no constructive work which would make the individualization of treatment possible. The courts before which the children's cases were tried were courts of general criminal jurisdiction whose rank depended upon the seriousness of the offense. Despite the various beneficent efforts in a number of states to save offending children, numberless children in the country as a whole were indicted, prosecuted, and tried as ordinary criminals and imprisoned in reformatories and penitentiaries.

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[1] Laws of New York, 1884, ch. 46, sec. 713.

[2] *Ibid.*, 1892, ch. 217.

[3] Laws of Indiana, 1891, ch. 151.

[4] *Ibid.*, 1893, ch. 122.

[5] Laws of Rhode Island, 1898, ch. 581.

Such were the general conditions concerning the treatment of juvenile offenders throughout the country just before the advent of the juvenile-court movement. It was left to Illinois to pass the first comprehensive law to create the first specially organized juvenile court and to develop the possibilities of this epoch-making movement.

2. *PIONEER JUVENILE COURTS*

Certain features of the juvenile court, as we have seen, have developed both abroad and in some American states other than Illinois, and there is, accordingly, some controversy as to the country or the state which deserves the credit for having established the first juvenile court. It is, however, a generally accepted fact that the first juvenile court, not only in the United States but in the world, began in 1899 with the establishment of the Chicago Juvenile Court, technically called the Juvenile Court of Cook County.[1]

The juvenile-court law of Illinois, officially styled "an act to regulate the treatment and control of dependent, neglected, and delinquent children," under the authority of which the juvenile court of Chicago was established, created no new or special courts. In all portions of the state except Cook County, it conferred jurisdiction in cases arising under the law upon circuit and county courts. It provided that in counties of a population over 500,000 the circuit court judges should designate one or more of their number to hear all juvenile cases, a juvenile-court room should be separately provided, a separate record kept and that the court might for convenience be called "the juvenile court." Cook County, which contains the city of Chicago, was the only county which could avail itself of this provision. As far as Cook County is concerned, the law brought under one jurisdiction, that of a juvenile court, cases involving delinquent, neglected, and dependent children, and contained practically all the essential features of the juvenile court as it exists today.

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[1] Laws of Illinois, 1899, p. 131.

A. There is not much that is new about the law itself. It was largely an attempt at a codification of the existing laws of that state and an incorporation of some features of the laws of other states into one statute known as the juvenile-court law. The only new and very important thing was the concept that the child who broke the law was not to be regarded as a criminal, for the law provided that all persons under the age limit should be considered wards of the state and should be subject to the care, guardianship, and control of the juvenile court. The delinquent child was to receive practically the same care, custody, and discipline that were formerly accorded the neglected and dependent child and which, as the act stated, should approximate as nearly as might be that which should be given by his parents. To this effect, in drafting the bill great care was taken to eliminate in every way the idea of a criminal procedure. The proceedings were divested of almost all features which are attached to a criminal proceeding. Instead of arrest by warrant, examination by a magistrate, holding to bail, possibly indictment, and trial by jury, the juvenile-court procedure has substituted the less rigorous sequence of complaint, investigation, petition, summons, and an informal hearing. In short, the chancery practice was substituted for that of the criminal procedure.

The juvenile-court act of 1899 was the culmination of nearly ten years' efforts on the part of persons interested in the problem of juvenile delinquency. It was not without a fight that the cause was finally won.

By 1899 the conditions in the state of Illinois were not more deplorable than those in other states. In Illinois the delinquent child between ten and sixteen years of age was still considered a criminal as far as arrest, detention, and trial were concerned. He could still be sent to a house of correction (city prison), to a county jail, or to a state reformatory. It was estimated that in the year 1898 there were 575 children charged with offenses confined in the county jail of Cook County. For the twenty months ending November 1, 1898, there were committed to the house of correction of the city of Chicago 1,983 boys.[1] The plight of the child would not have been better if he was simply let off without any constructive help and protection.

Into this situation came a body of socially-minded women and lawyers, who had given earnest study to the problem of juvenile delinquents, and who had agitated for some kind of a court for children, beginning in the early nineties. After some unsuccessful efforts, a committee was appointed in 1898 by the Chicago Bar Association, at the request of the State Board of Charities, to make a thorough survey of the situation. Judge Harvey B. Hurd was selected as chairman of the committee and Dr. Hastings H. Hart as secretary. Principally prepared by Dr. Hart, revised by the committee, and highly endorsed by various organizations, the bill with some amendments was passed and became law on July 1, 1899.

The juvenile court of Denver was the next pioneer juvenile court to be established. Two months before the Illinois law went into effect and a few days prior to its passage, the Colorado legislature passed a so-called "school law."[2] It provided, in part, as follows:

> Any child between the ages of eight and fourteen years, and every child between the ages of fourteen and sixteen years, who cannot read and write the English language or not engaged in some regular employment, who is an habitual truant from school . . . , or who is in attendance at any . . . school and is incorrigible, vicious, or immoral in conduct, or one who habitually wanders about the streets and public places during school hours, having no business or lawful occupation, shall be deemed a juvenile disorderly person and be subject to the provisions of this act.

The law vested in the county court the jurisdiction over the cases arising under the act. The law was, in reality, a truancy law, but it contained some of the features of juvenile-court laws. It was under the authority of this law that Judge Lindsey held that a child under sixteen, who had committed any act which would technically constitute a crime, would be charged with improper conduct and would be amenable to the provisions of the act.

As a result of the work of the county court under Judge Lindsey, the juvenile-court law proper was passed in Colorado in 1903.[3] The county courts were authorized to try cases coming under this law. In counties of the first and second class, the court in the trial and disposition of these cases might be called for convenience "the juvenile court." The first law which punishes persons who contribute to the delinquency and dependency of children was passed in Colorado in the same year, a special contribution of that state to the juvenile-court movement.

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[1] T. D. Hurley, *Origin of the Illinois Juvenile Court Law*, p. 12.

[2] Laws of Colorado, 1899, ch. 136.

[3] *Ibid.*, 1903, ch. 85.

Juvenile-court laws were passed in the five years after 1899 in a number of other states, namely, Pennsylvania, Wisconsin, New York, Maryland, California, Missouri, New Jersey, Indiana, Iowa, and Ohio. These laws were either state-wide in operation or applicable only to larger cities. Often a law nominally state-wide could be availed of only by one or two cities. They created no independent courts, but in all cases the jurisdiction was vested in some existing courts, making the juvenile court a branch thereof.

The pioneer stage in the development of the juvenile-court movement lasted until about 1904. It was largely a period of experimentation, of sentiment, and of missionary work by individuals.

All the juvenile courts mentioned above were established at a time when the juvenile court was still in its experimental stage. In the matter of administration the juvenile-court law was weak at many points. In most cases it was a mere framework without any of the supplementary agencies to compel its enforcement. The difficulties and the experiences of the courts were much alike. They copied from one another, but they had to develop their organizations, techniques, and facilities to suit their own peculiar local conditions. With few precedents and traditions they made experiments in methods and procedure. They tried one method after another. Sometimes they failed and sometimes they succeeded. They suffered from political pressure, constitutional attack, and even public indifference. They had to win the understanding and the confidence of the community as to the real value of this new institution and to remove all obstacles in the way of its smooth working.

The pioneer stage was also a period of sentiment. Sentimentality has undoubtedly played a great part in the juvenile-court movement. The movement was started and advocated in many places not so much from any legal theory, scientific motive, or any consideration of democracy or social economy as from humanitarian considerations based on sentiment, sympathy, morality, or humanity. An institution that is based on sentiment alone can hardly endure. Sober considerations of the whole movement on a scientific basis were possible only after the wave of sentiment in the pioneer stage had subsided.

In this pioneer stage of the juvenile-court work and a little later, personal factors were important. Judges Ben. B. Lindsey, Harvey B. Hurd, Julian W. Mack, George W. Stubbs, and Harvey H. Baker, Mrs. Lucy L. Flower, Miss Julia C. Lathrop, Dr. Hastings H. Hart, Bernard Flexner, Henry W. Thurston, Homer Folks, and many other men and women, whose names cannot be mentioned here, have identified themselves with the juvenile-court movement, either by their real accomplishments in their official positions in juvenile courts or by their creditable service and influence as private citizens.

3. *SPREAD OF THE JUVENILE-COURT MOVEMENT*

The spread of the juvenile-court movement is one of the remarkable developments in the field of jurisprudence during the last quarter-century. The movement which had its inception in Chicago has been extended throughout the country and to most parts of the world. In principle at least, almost everywhere the child has emerged from the domination of the ideas and practices of the old criminal law.

The American juvenile-court system has been widely studied by commissions from abroad, and requests from foreign governments have frequently been made for advice concerning its organization, procedure, and practice. The principle and some of the features which characterize the American juvenile court have found their way into statute books and into practices of courts or agencies dealing with delinquent children throughout the world.[1] It clearly demonstrates the recognition by all the countries of the value of this institution and the ever-increasing endeavor by each to develop it on the best lines.

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[1] Juvenile-court laws in different forms are known to have been enacted in the following countries: Great Britain, 1908; Canada, 1908; Geneva (Switzerland), 1910; France, 1912; Belgium, 1912; Hungary, 1913; Croatia, 1918; Argentine, 1919; Austria, 1919; Madras (India), 1920; the Netherlands, 1922; Madagascar, 1922; Bengal (India), 1922; Japan, 1922; Germany, 1923; Brazil, 1923; Spain, 1924; Mexico, 1926. In the following countries they are known to exist but the dates of their formal enactment are unknown: Australia, South Africa, Czechoslovakia, Egypt, New Zealand, Poland, Sweden. In Norway, Denmark, Finland, and Portugal there are no juvenile courts, but children are dealt with under a special code, administered usually by a guardian council or a child-welfare commission, and not subject to punishment under a certain age. In Russia there was a juvenile court, but since 1922 the whole question of juvenile delinquency, including its study and treatment, has been made a branch of social education, and has been turned over to education authorities; special committees for cases of "non-adults" attached to the departments of public education were entirely substituted for courts.

In the twenty-eight years since the first juvenile court was established in Chicago, the extension and development of the juvenile court within the United States has been remarkably rapid. In spite of inertia and opposition, state after state has passed similar legislation and has established either separate courts or special sessions of existing courts for the hearing of children's cases. Nearly every year new laws have been passed providing for juvenile courts and old laws have been amended so as to express the more recent thought on the subject. The history and experiences of juvenile-court legislation in different states were similar in many respects, and it would be too cumbersome to narrate them here in great detail. It suffices to say that by 1904 the juvenile court was established in ten states. More than twenty states and the District of Columbia had somewhat similar institutions within the first ten years. The system was well and widely established by 1914 when more than thirty states had juvenile-court laws. By 1920 all but three states had such laws. Today every state in the Union save one—Wyoming—has a probation law for children or applicable to children,[1] and all but two states—Maine and Wyoming—have juvenile-court laws.[2] Maine and Wyoming have no juvenile courts, but they have laws which make possible to a considerable degree the kind of care and protection which is the object of juvenile-court legislation. Maine makes special provision for the probation of children under sixteen and certain other points usually found in juvenile-court laws are covered by various enactments. Wyoming defines "delinquent," "dependent," and "neglected" children and authorizes agencies and institutions for their care. Although there is no probation law for children in Wyoming, the largest part of probation work is done through the Wyoming Humane Society and the State Board of Child and Animal Protection.

Probation did not originate in the juvenile court but it developed in dealing with children before the courts. Though probation in Massachusetts had met with a fair degree of success, it was not until 1899, twenty-one years after the first law had been passed, that the system ceased to be solely a Massachusetts institution. In that year Rhode Island passed a law providing for both adult and juvenile probation, and in the same year Minnesota and Illinois embarked on the scheme of juvenile probation. The advent of the juvenile court in 1899 was of the greatest significance for the extension of probation. Practically all of its development has occurred during the past twenty-eight years *pari passu* with the juvenile-court movement. In some states probation laws antedate juvenile-court laws. When laws were enacted establishing juvenile courts, a probation system for juvenile work was provided for as a matter of course.

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[1] In twelve states the use of probation is limited to the cases of children only.

[2] Juvenile courts were established in four of the Territories of the United States: Hawaii, 1909, Alaska, 1913; Porto Rico, 1915; the Philippines, 1925.

The progress of the movement from the very beginning has been especially rapid through the West, partly because the West was relatively untrammeled by fixity of traditions and institutions, and partly because in the older states the need was less since some kind of care of children had usually been provided for in their old statutes. Originally, a number of the eastern states engrafted on their old criminal laws some of the conspicuous features of the new legislation and the proceedings in their juvenile courts partook of a quasi-criminal nature in delinquency cases. This feature has been either relaxed, modified, or discarded in recent years, notably in the New York county children's court law of 1922,[1] which, based on a constitutional amendment adopted by referendum in 1921, conferred chancery powers upon children's courts.

4. *DEVELOPMENT OF ORGANIZATION AND TECHNIQUE*

Although the principle of the juvenile court is accepted throughout the country, its organization and technique, though not entirely unknown, were in the main undeveloped at the beginning of the juvenile-court movement. There were few traditions and almost no trained personnel. The pioneer courts, therefore, had to develop new types of staffs, new modes of preliminary procedure, of hearing, and of detention, new technique for gathering facts, social and mental, and new methods and facilities for making disposition of cases.

As in each state the juvenile court operates under a different legal system and lives under different local conditions, a great variation in organization, procedure, and method exists. Gradually, however, as a result of more than twenty years' experience, methods have been tested and the main principles of technique formulated.

Standardization of personnel is essential to any successful working of the juvenile court, which after all depends more upon human factors than upon law. The qualifications and training of judges and probation officers are regulated not so much by statutes as by experience. It was from experience that the early system of rotation of judges with its consequent evils was largely discarded in favor of longer assignments, permitting greater specialization. Before the advent of the juvenile court, the probation work was done mainly by private societies and individuals. With the development of the juvenile court, the court still depended to a great extent upon volunteer assistance. Gradually, the importance and the public character of probation work have been recognized and the volunteer probation officers are now generally replaced by regular officers. The usefulness of women officers has also been increasingly recognized in the handling of girls' cases. With the development of the better-organized staffs and better-trained personnel, the juvenile-court work has become more or less standardized with respect both to organization and technique and the efficiency of the work has been greatly increased.

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[1] Laws of New York, 1922, ch. 547.

The scientific study of juvenile delinquents along medico-psychological lines, as an essential prerequisite in any successful treatment and prevention of juvenile delinquency, did not begin until the close of the first decade of the juvenile court. Such a study as a regular service for delinquents and for a court began in the juvenile court in Chicago in 1909. Only a very limited number of courts have been able to give practical recognition to the importance of this phase of the court's work. With the establishment of institutes for the study of children in a number of communities under the Commonwealth Fund Program for the Prevention of Delinquency and under other auspices, the situation with reference to mental examinations has been greatly improved during recent years. Although the movement is still in its infancy, the technique of diagnosis in the clinical work has become fairly well established.[1]

For several decades the private child-protective societies had the work of juvenile detention in hand. The first special place of detention for children was established in Massachusetts in 1880. With the development of the juvenile-court movement the work became recognized as legitimately a governmental function. In Chicago, where the juvenile court had its origin, a juvenile detention home was opened in 1903 by private agencies with the aid of public appropriations.

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[1] *Infra*, pp. 199-203

Denver, in 1903, and San Francisco, in 1904, undertook for the first time governmental operation of detention homes. In Chicago it was not until 1907 that a detention home was established by law.[1] Although many detention homes are not much better than congregate jails, some progress has been made both in their equipment and in their administration in some communities.

In many states the jurisdiction of the juvenile court has been broadened to include children above the age limits set in the original laws and classes of cases not at first included. In some states the jurisdictional age has been raised from sixteen to seventeen or eighteen. In most cases the jurisdiction included at first only cases of children alleged to be delinquent, dependent, and neglected, but, in the majority of states that have enacted on the subject, it has been extended to adults who contribute to the delinquency or dependency of children. In a few states some of the juvenile courts, usually styled in this case the domestic relations courts, are given authority to deal with some of the domestic relations problems. A great many administrative tasks have been assumed by a number of juvenile courts, relating, for example, to mothers' pensions, to granting work permits to under-aged children under child-labor laws, to cases of defective children, to compulsory education laws, and to the placement of children in family homes.

5. *POLITICS IN JUVENILE COURTS*

The juvenile court has not been immune from political attacks. It would seem that there is nothing in the nature of juvenile courts to invite the play of partisan politics. Yet in places where the office of the judge is elective, the danger of local political interference cannot be entirely avoided so long as judges are elected on party tickets and so long as a judge has any opinion of his own on public questions. In Denver, Judge Lindsey held his position for a quarter of a century in spite of attacks by what he called "powerful interests" and an "invisible order." The complications in Denver led to a great many election contests, involving bitter conflicts, attacks before grand juries, investigating committees, and court procedures.[2] Political complications also arose in Cook

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[1] A. W. Towne, "The Place of the Juvenile Court Detention Home in the Community," *Proc. Natl. Probation Assoc.*, 1917, p. 54.

[2] As a result of the complications arising out of the election for state and county officers in the fall of 1924, Judge Lindsey was removed from the juvenile

County during 1911 and 1912. The result of the struggle between the county authorities and the chief probation officer of the court was an impartial investigation by a citizens' committee, headed by Professor Willard E. Hotchkiss, which made its report in 1912,[1] and a decision of the Supreme Court of that state to the effect that the portion of the act providing for the selection of probation officers by the county commissioners was unconstitutional as a violation of the constitutional principle of separation of powers, and that probation officers are assistants to the courts, performing judicial functions, and as such are to be chosen only by popular vote or appointed by the court itself.[2]

Improvement in the public opinion of the community, combined with the civil-service device for the appointment of probation officers, and the gradual recognition of the nonpolitical character of the office of juvenile judge and probation officer have tended to lessen political attacks on juvenile courts.

6. *RECENT DEVELOPMENTS OF THE COURT*

The statements made above regarding the juvenile court may give an incorrect impression of its present status, for our attention is fixed mainly on the well-organized courts in more populous communities. Despite the quarter of a century and a little over that has elapsed since the first law establishing a juvenile court in this country was passed, large areas of the country still remain without special method of dealing with delinquent children. The old view that the delinquent child is a criminal to be proceeded against as an offender against the state, upon whom the state must inflict punishment, prevails today in many courts.

In order to survey the progress and to ascertain the status of the juvenile court in the United States, a questionnaire study was made in 1918 by Miss Evelina Belden for the Children's Bureau of the United States Department of Labor.[3] Information in that study was secured from 2,034

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bench by a decision of the Colorado Supreme Court, handed down on January 24, 1927. Judge Lindsey's own story is told in his article, "My Fight with the Ku Klux Klan," *Survey Graphic*, 7:271-274, June 1, 1925. For the work of the Denver court see Ben B. Lindsey, *Twenty-Five Years of the Juvenile and Family Court of Denver*, 1925.

[1] The report is entitled "The Juvenile Court of Cook County, Ill. Report of a committee appointed under resolution of the Board of Commissioners of Cook County, August 8, 1911."

[2] Witter *v.* Cook County Commissioners, 256 Ill. 616 (1912).

[3] Evelina Belden, "Courts in the United States Hearing Children's Cases," U. S. Children's Bureau, *Pub. 65*, 1920. For a summary see especially pp. 10-15.

courts, out of 2,391 addressed, hearing children's cases. The study shows conclusively that effective juvenile courts with paid probation staffs were by no means universally established. It has been pointd out there that every city having 100,000 or more inhabitants had a court specially organized for children's work if separate hearings for children, regular probation service, and the recording of social information are taken as simple and minimum standards. Specially organized courts were available to 70 per cent of the total population living in cities of 25,000 to 100,000, to 29 per cent of the total population of cities of 5,000 to 25,000, and to only 16 per cent of the population of rural communities. About 90 per cent of the courts that hear children's cases were in counties that had no city of more than 25,000 population. Only 321 of 2,034, or 16 per cent of the courts that hear children's cases lived up to the minimum standards defined above. It was estimated that in 1918 approximately 50,000 children's cases out of a total of 175,000 in the United States were brought before courts not adapted to handle children's cases. If we were to add to these minimum standards for a juvenile court the study of the physical and mental as well as the social basis for the behavior problems presented, the number of the specially organized courts would be greatly reduced. In the counties containing no city of more than 5,000 population, only 1 per cent of the courts had facilities for mental examinations; in those with cities of from 5,000 to 25,000, only 7 per cent; in those with cities of from 25,000 to 100,000, only 28 per cent; of the counties with cities over 100,000, 77 per cent had such facilities. But the percentage of all courts hearing children's cases in the United States that had such facilities was only 7 per cent. Only thirteen courts in the United States had clinics working with the court as a part of the court machinery. A considerable number of smaller courts reported that hearings were not separate. Thirty-seven courts in eighteen states reported that no effort was made to separate children in jails from adult offenders. Although at that time every state in the Union except one had legislation providing for juvenile probation, less than half the courts having jurisdiction over children's cases—45 per cent—were known to have had probation service, and in only eight states was there a recognized probation officer for every court. The rural districts were far behind the urban communities. While 66 per cent of the courts in cities of 5,000 to 25,000 had probation service, it was true of only 25 per cent of the courts in districts that were entirely rural. In most courts social records were quite inadequate.

The facts described in that study show that the juvenile court is still in a formative period and reveal the urgent need for further improvement. They especially indicate that the great need of the juvenile court is the extension of its machinery and point of view to the rural sections. Since approximately 50 per cent of the population of the United States lives in rural areas, and the proportion of children in the rural population is greater than in the urban, the failure to make the juvenile court available to these children is very serious.

In spite of the rather startling facts revealed, it is still true that since the first juvenile court was established, the extension and development of the movement has been remarkably rapid. Even at the time of the study made by the Children's Bureau, 125,000 of an estimated 175,000 children's cases were heard by courts with some degree of special organization. The court was being extended to all large cities and steps were being taken and various plans were being devised to extend it to rural communities and small towns. It is a commendable fact that in 1918 about 45 per cent of the courts had some sort of probation service; that a promising movement for the study of the child had been started; that community coöperation had been to a large extent secured; and that standardization of methods and definition of common principles had been progressing. Signs from every angle indicate that great progress has been made since 1918 when the Children's Bureau made its survey. If only we think of the deplorable conditions that existed twenty-eight years ago, the present status of the juvenile court gives us no reason to be pessimistic.

The achievement of a quarter-century through the juvenile court and scientific research in dealings with delinquents is certainly great, though the high ideals of the juvenile court have not yet been fully realized. Despite prevailing tides of opposition and even reaction, the idea and methods of the juvenile court have been generally successful. From the treatment of juvenile offenders as criminals to be punished for the specific offense committed in violation of the law, to their treatment as wards of the state to be encouraged, aided, and protected, as provided in most juvenile-court laws, the movement is not only the most notable development in judicial principles and methods within the last quarter of a century, but also a part of the history of the growth of civilization itself. It points away from the slow and dreary processes in criminal jurisprudence to the dawn of a more enlightened day when the state will have for its chief object the reclamation and reform, if possible, of its erring child citizen rather than the exhibition of revenge. The movement is of peculiar significance from the point of view of putting the treatment of the offender on a scientific basis, for it will probably offer an entering wedge for scientific reform of the whole machinery of the administration of criminal justice.

Chapter III

THE JUVENILE-COURT SYSTEM

1. *MEANING OF THE JUVENILE COURT*

From its legal aspect the juvenile court, as its name implies, is a part of the judicial system of the state. Important as the social aspect of the court may be, it still retains its standing as a judicial branch of government. The laity and even the lawyer are apt to look upon the juvenile court as hybrid and its laws as a somewhat heterogeneous mass of legislation which has no apparent correlation with the general legal system. In fact, although the juvenile court concerns itself with social justice rather than strict justice, it is still a court of law—with a new status indeed—intimately bound up with the judicial machinery of the state, and it decides legal questions of social import, such as the custody and disposition of children, which cannot be disposed of in any other way than through the intervention of a court following conscientiously and more or less definitely the established principles of law.

Precisely what is meant by a juvenile court is a difficult question to determine, for the term is much easier described than defined. The inference that a juvenile court signifies a separate court or a separate judge or a separate session of the court or a separate record for children's cases is in respect to many states inaccurate. It is not a juvenile court simply because it is so called in a statute, nor is it a juvenile court simply because it has a separate court room. In some states the session of the court dealing with children is not even termed in the statues "juvenile court," though in all but two states special statutory provision has been made for the trial of some or all juvenile cases.

The juvenile court is not a court of equity or chancery, nor is it a common law court. It is a statutory court and, therefore, its legal definition is to be found in the organic acts of the different states creating it, for statutory courts and their procedure are usually arbitrarily defined and jurisdiction clearly specified therein. In general, we may say that a juvenile court is a court having special jurisdiction of a parental nature over delinquent and neglected children. It is not—as it is often thought of in its popular conception—a sort of simple tribunal dealing with minor and petty offenses committed by the youth of the community. It is rather a court of chancery and parental power to protect the erring and unfortunate child. The term "juvenile court" is a general descriptive term, for convenience and for lack of anything more explicit, designating a court exercising chancery or, at least, quasi-chancery jurisdiction over delinquent, neglected, and, in some instances, dependent children, holding separate hearings for children's cases, and having the power to put children on probation. These are the most essential features of a juvenile court. Other features, important but not so essential to the organization of a juvenile court, are separate detention, special recording system, separate court room, and provisions for mental and physical examinations. It must be understood, however, that well-organized courts of the criminal type have often so closely modelled their procedure and method after those of the juvenile court that the difference consists in what can be done rather than in the way in which it is done. The distinction will necessarily be waived in many instances for the purpose of this study.

2. *CLASSIFICATION OF COURTS*

What are conventionally called juvenile courts may be classified as separate or independent courts, designated courts, and coördinated courts according to the court system to which they belong.

A number of juvenile courts are separate courts, that is, courts which are entirely independent of other courts. In most instances, they are created by special law for large cities or counties.[1] The vast majority of courts, which are generally called juvenile courts when acting under the juvenile-court law, are designated courts, that is, courts appended to other court systems, consisting legally of special sessions or divisions or departments of some existing court, served by one or more judges assigned from that court or chosen specially to hear children's cases. It must be understood, however, that in many states, especially where the separation of juvenile courts from other courts is more or less complete and where juvenile judges are especially chosen to hear children's cases, the designated courts, though legally branches of other courts, are, in effect and to all intents and purposes, separate courts. Some juvenile courts, separate or designated, have some coördination in the trial and treatment of both juvenile and domestic relations cases. We will speak later of the whole movement which consolidates these two classes of jurisdiction into one court, called a domestic relations or family court, and of the various forms under which they are organized.

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[1] They are known to have been created for the following cities or for counties in which these cities are the seats of the courts: Birmingham, Mobile, Montgomery, Ala.; Denver, Colo.; Wilmington, Del.; Washington, D. C.; Miami, Tampa, Orlando, Jacksonville, Fla.; Atlanta, Macon, Savannah, Ga.; Indianapolis, Ind.; New Orleans, Shreveport, La.; Baltimore, Cumberland, Hagerstown, Md.; Boston, Mass.; Jersey City, Newark, N. J.; Buffalo, New York, N. Y.; Chattanooga, Knoxville, Memphis, Nashville, Johnson City, Tenn.; Ogden, Salt Lake City, Utah. The law of North Carolina makes the establishment of separate juvenile courts mandatory in cities of 10,000 and optional in cities of 5,000 to 10,000 that are not county seats and that have recorder's courts; accordingly, there are now six separate juvenile courts, which are independent of the superior court system of that state. Under the Virginia law of 1922, a city of 100,000 must have a separate juvenile and domestic relations court; cities having a population between 25,000 and 100,000 may have separate courts or may appoint some one who also serves as police or civil justice.

The question whether the juvenile court should be a separate court, a designated court, or a coördinated court should be determined primarily by local conditions, constitutional provisions, the extent of jurisdiction, and historical evolution of the courts in a particular state. Obviously, no hard and fast rule can be laid down. In general, while specialization is desirable, it is not essential that there should be an independent court except in very populous communities. If the real purpose of the juvenile court is provided for, and if the necessary provisions are inserted in the law, even in large cities separate courts may not be necessary. Separate courts are not practicable in most small towns and rural areas, where the expense and the amount of work do not justify the employment of men devoted exclusively to carrying on a juvenile court, and it is, therefore, impossible to have juvenile courts unless they can be tied up with some already existing and stable agency. In fact, in many states very successful juvenile courts are in operation which are simply "special divisions" or "special sessions" of existing courts.

3. *COURT GIVEN JURISDICTION*

Of the designated courts or courts operating as parts of the other judicial systems, the various types usually represented are county courts, district courts, superior courts, probate courts, the courts of common pleas, circuit courts, municipal courts, and other courts of general jurisdiction. Two or more systems are sometimes adopted in the same state. Similarly named systems do not necessarily have like powers. Nor do the types of courts always correspond with the number of areas served, because, on the one hand, certain large cities are served by more than one court, and, on the other hand, certain courts serving a city also serve surrounding territory, which may include both rural areas and one or more smaller cities.

Nevertheless, the types of systems do suggest in a general way the types of judges, the nature of procedure, the personnel of the court, and the types of other cases heard which would influence the method of trial and the attitude of the officer. For instance, the probate court, as in Michigan, seems to be an appropriate court to sit as a juvenile court in view of the fact that, unlike circuit or district courts, it is a court of civil jurisdiction only and its general duties require it to look after the interests of minor children. On the other hand, states which have adopted the centralized system of a district court, as in Massachusetts, or of a county court, as in New York, have done away with most of the evils of inefficiency and varying procedure. In states, as in New Hampshire, where the old justice of the peace system prevails, a uniform and successful handling of children's cases is practically impossible. Until 1922 when the state-wide county system was adopted in New York State [1] and when the number of courts hearing children's cases was reduced to less than seventy-five, there were in that state more than 4,000 city police courts and village police justices—all criminal courts—which had jurisdiction over delinquent and neglected children. The justice of the peace system is very unsatisfactory, for the training of police judges and magistrates does not, as a rule, equip them to deal with children's cases. A great many of them have little conception of law and of modern methods of handling children's cases. They are either too lenient or too severe and, as a rule, they do not support or understand probation. Most states definitely require the immediate transfer of juvenile cases that happen to be brought before them to a juvenile court or, at any rate, to a court of record.

4. *AREA SERVED*

One significant aspect of the legal jurisdiction of the juvenile court is the unit of area served. An understanding of areas is significant in any discussion of standardization, particularly that relating to probation service, detention systems, advisory boards, and coöperation with other community enterprises for public welfare.

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[1] Laws of New York, 1922, ch. 547.

The geographical unit of a juvenile court may be a county, a district, or a city. The county unit is the most prevalent system. Under this system a unified probation service, detention home, and clinic for children may be developed as part of the county plan to serve the entire county, both rural and urban. The coincidence of the area of jurisdiction with the taxing and governing unit is a great financial benefit. Moreover, many other agencies, public and private, with which the juvenile court must of necessity coöperate, have developed their programs in the rural field on a county basis. A court having jurisdiction over a district, which may be composed of several counties, sufficiently large to permit specialization has a great advantage over one or more courts serving small areas. Courts with jurisdiction including only an urban population are the least common; there are few states in which the city unit system is used to any considerable extent. If the city is taken as a unit, unless the city and county are coextensive, the rural parts of the county in which the city is located are left without provision. In a few places a court for a city has concurrent power with one for a county or district.

5. *TYPE OF JURISDICTION*

In general, the jurisdiction exercised over children by juvenile courts is chancery or civil or equity and not criminal in character. The distinction between the criminal and chancery proceedings is important, because the proper attitude of the court toward the child must depend in large measure on an appreciation of this fact. Under criminal procedure, which is assumed to be just and impersonal—with apprehension by warrant and arrest, indictment by grand jury, trial by jury on specific charges, pleading of "guilty" or "not guilty," strict application of the rules of evidence, criminal records and sentences, and penalties—the punitive aspects of the process are emphasized. The many social factors are excluded from consideration as being irrelevant. On the contrary, in the proceeding involving the child under chancery practice emphasis is laid not on the specific act done by the child but on the vital social facts of home and environmental conditions and the child's physical and mental make-up that are the real causes of the child's being brought to court. The purpose is not to determine whether or not a child has committed a specific offense, but to discover whether he is in a condition requiring the special care of the state and to understand the child in order that the court may be able to deal with him wisely. The immediate offense charged is considered only as one of the many other social factors. In order to accomplish this, the juvenile court must have power to consider social factors, get the whole truth in a common-sense way, and, instead of punishment for the sake of punishment, substitute social treatment.

The actual extent of the criminal and chancery procedure can be determined only by a study of the procedure actually used in different courts instead of that provided in statutes. Many of the courts that have not been given full equity powers, as in Buffalo, New Orleans, and the District of Columbia,[1] have adopted what is, in its essence, equity procedure, such as informality in the hearing, inquiries regarding character and the general needs of the child, separate hearings, and separate records. In practice, they are not distinguishable in procedure from the juvenile courts that operate fully under equity jurisdiction.

On the other hand, in a few states where juvenile courts operate under equity jurisdiction and the aim of the proceeding is held to be protection and not the punishment of the child, many vestiges and characteristics of criminal procedure may be found, such as the right to trial by jury, the definition of delinquency in imitation of the criminal law, and the use of some punitive methods which are distinctly those of the criminal court. Furthermore, some good juvenile-court laws are disregarded in spirit by some of the judges.

6. *LEGAL RELATIONSHIP TO OTHER COURTS*

In its relation with other courts in a judicial system, both criminal and civil, the original jurisdiction of the juvenile court may be exclusive or concurrent. It may be exclusive in some cases but concurrent in others. While concurrent jurisdiction over certain adult cases is advisable, that over children's cases and, in some instances, over adult cases often produces confusion and uncertainties and gives rise to many legal complications.

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[1] Katharine F. Lenroot and Emma O. Lundberg, "Juvenile Courts at Work; a Study of the Organization and Methods of Ten Courts," U. S. Children's Bureau, *Pub. 141*, pp. 8-9.

The relationship of the juvenile court to criminal courts may arise out of the nature of offenses and the question of jurisdictional age.

In dealing with the delinquent child, especially when he is charged with a felony or a crime punishable by death or by life imprisonment, a different policy has usually been adopted. The law in some states specifically excludes the juvenile court from jurisdiction in all cases of felony; in most states the relinquishment of jurisdiction in some or all cases of delinquency is left to the discretion of the juvenile-court judge, while in others the judge may transfer cases of delinquency to the criminal court, if he thinks the child cannot be made to lead a correct life or cannot be properly reformed.

In some places a delinquent child may be taken at the discretion of the examining magistrate either to the juvenile court or to some branch of the criminal court. In other places the discretion is left to the child himself or the judge with the consent of the child. Wisconsin, for instance, leaves it to the discretion of the examining magistrate to commit a boy between sixteen and seventeen and a girl between sixteen and eighteen to the juvenile court or to the court having jurisdiction in such cases.[1] The discretion is left to the child in Tennessee[2] and Texas,[3] where the law provides that a child who is charged with violating any law or statute is given the right to waive examination by the juvenile court and be tried in the ordinary criminal court.[4] In Nevada the age limit for children's cases is eighteen, but it is possible for the judge with the consent of the accused to extend the juvenile-court procedure to a person between eighteen and twenty-one unless the offense is capital.[5]

In most states the law does not restrict the jurisdiction of the juvenile court with reference to the seriousness of the offense. In these states the juvenile court may usually determine, upon hearing or thereafter, that the person is not a fit person to be dealt with under the juvenile-court law and may then waive jurisdiction and direct that the person be prosecuted under the general law. In some states this discretionary power can be exercised in case of any delinquent child, while in others it can be exercised only when the child is over a certain age and commits a felony. On the other hand, most juvenile-court laws expressly provide that other courts must transfer all children's cases brought before them to the juvenile court or that they may do so in some or all cases over which they have concurrent jurisdiction with the juvenile court.

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[1] Laws of Wisconsin, 1925, ch. 435.

[2] Private Laws of Tennessee, 1919, ch. 558.

[3] General and Special Laws of Texas, 1918, ch. 26.

[4] This provision was upheld in *Fifer* v. *State*, 90 Tex. Cr. Rep. 282 (1921). Contra: Ex parte Parnell, 200 Pac. 456 (Okl. 1921).

[5] Revised Laws of Nevada, 1912, sec. 737.

The assumption of jurisdiction over a child by a juvenile court frequently raises intricate jurisdictional questions, because the statute which establishes such a court does not always clearly define the limitation which is thus imposed on the jurisdiction of another court. The decisions of the courts on the question of conflict of jurisdiction are far from being uniform.

Provisions are ususally made in the juvenile-court law to negative the jurisdiction of the criminal courts in some or all children's cases. In the absence of express provisions, the decisions are conflicting. Criminal conviction has often been upheld on the ground that a juvenile court cannot render a penal judgment in a juvenile case and, therefore, prosecution for specific offenses is in the criminal court.[1]

The decisions are also conflicting as to whether or not the preliminary examination by the juvenile court, if so provided, is required as a means of conferring jurisdiction upon the criminal court. The preliminary examination is intended to determine whether the child has committed a felony or whether he is merely a delinquent, or whether or not he knows the wrongfulness of his act. But the courts which hold that it is not a jurisdictional requirement usually take the view that the provision is intended only to facilitate the jurisdiction of the criminal court over certain offenses committed by children, or that the court need not send the case to a juvenile court, at least when the suggestion of the defendant's age is not made.[2]

The validity of the right of the judge to transfer cases of delinquency to the criminal court, if the judge thinks the child is past reformation, has been upheld in an Alabama case.[3] The act was held as not lodging in the juvenile court an arbitrary discretion to suspend the operation of the juvenile law, but merely contemplating a judicial investigation of the question as to whether or not a juvenile offender can be reformed. It is just as competent for the legislature to adopt that method for ascertaining the fact of delinquency as to confer on that court the authority to determine the age of the child.

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[1] State *v.* Buckner, 300 Mo. 359 (1923); State *v.* Porterfield, 264 S. W. 386 (Mo. 1924). Contra: State *v.* Reed, 123 La. 411 (1909).

[2] Slade *v.* State, 85 Tex. Cr. Rep. 358 (1919); People *v.* Wolff, 182 Cal. 728 (1920); Templeton *v.* State, 146 Tenn. 272 (1922). Contra: Compton *v.* Commonwealth, 194 Ky. 429 (1922); Ex parte Bonitz, 234 Pac. 780 (Okl. 1925).

[3] Macon *v.* Holloway, 19 Ala. App. Cr. 234 (1923). *Cf.* also McLaren *v.* State, 82 Tex. Cr. Rep. 449 (1917).

Waiver of jurisdiction and transfer of cases whether by the juvenile court, the examining magistrate, the prosecuting authority or the child himself, though seldom exercised, is objectionable in principle. It is true that occasionally mature boys and girls who are physically and mentally adults appear in court, and it is impossible or unwise to deal with them by the usual method, and, therefore, there is some justification for the view that a criminal trial should be permitted in certain cases. Still, the kind of arbitrary power which is vested in some courts, unless very carefully exercised, and only after the court which deals with children has had opportunity of thorough study of the case and consideration of all the elements involved, is apt to be abused; while to allow the child to waive the right to be proceeded against in the juvenile court may defeat the very purpose of the law. Such practices, if not discontinued, should be carefully restricted in regard to the minimum age of the children and the character of their offenses.

Another aspect of conflict of jurisdiction is the question of jurisdictional age. The failure of the child to raise the question of age during his trial in the criminal court has been usually held not to sustain a conviction. The right of a delinquent child to challenge the jurisdiction of the criminal court is not waived by his failure to make the age a question during the trial, nor is ignorance on the part of the criminal court as to age material.[1] If the accused is required by law, however, to file a statement that he is under a certain age, and comes under the juvenile-court law, or to exercise his option to be tried in the criminal or juvenile court, a failure to bring up the question of age in such a case validates a conviction,[2] for the juvenile waived his legal right to be proceeded against as a juvenile and the conviction cannot be set aside on ground of subsequently formed decision to plead juvenility.[3] Conflicting evidence as to age has been held to support the trial court's action in refusing to certify the defendant to a juvenile court.[1]

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[1] Mattingly *v.* Commonwealth, 171 Ky. 222 (1916); State *v.* Griffin, 7 Tenn. Civ. App. 230 (1917); State *v.* Briggs, 149 La. 844 (1921). Contra: People *v.* Oxnam, 170 Cal. 211 (1915).

[2] Slade *v.* State, 85 Tex. Cr. Rep. 358 (1919).

[3] Fifer *v.* State, 90 Tex. Cr. Rep. 282 (1921).

Another question which often arises is whether the age jurisdiction is to be fixed at the time of the commission of the offense or at the time of apprehension, official charge with offense, or trial. That the age of the child at the time the offense is committed controls in fixing jurisdiction has been held in a number of cases.[2] A Texas court sustained the conviction of a boy over the age limit at the time he was tried though he was under the limit when he committed the offense.[3] In another case, the criminal court waited until the boy passed the age limit, then tried and convicted him.[4] These seem to be extreme cases and cannot be sanctioned.

The criminal court is not the only court with whose jurisdiction that of the juvenile court conflicts. The question of conflict of jurisdiction often arises in civil cases, especially in divorce proceedings. Under such circumstances, the Ohio court held that the jurisdiction of the juvenile court is concurrent with that of divorce courts, and that the court which first acquires it controls it.[5] Thus, the judgment of a juvenile court in delinquency, neglect, or dependency cases has been held not to affect that of a divorce court over the custody of a child. It has been generally held, however, that the juvenile court can take jurisdiction over a child whose custody the litigants in the divorce suit are disputing, even though divorce proceedings have already been instituted.[6] The reason is that the proceeding of the juvenile court is entirely different from that of the divorce court in the condition under which it may take control of a child and the manner in which it may exercise this control.

The intricacies and complexities of these legal questions, in connection with the relation between the juvenile court and other courts, point emphatically to the necessity of much clarification and readjustment. First, they point to the necessity of clarifying many ambiguous points in the statutes, which serve to lay the foundation for additional technicalities, common in criminal cases, and to disregard the interests of the state in not having children tried as criminals. Secondly, they point to the necessity of coöperation between the juvenile court, the prosecuting authority, and the criminal court in such matters as prosecution, investigation, and the transfer of cases, for it is absolutely necessary to any smooth and successful working of the system as a whole. Lastly, they point to the desirability of vesting the juvenile court with exclusive, original, and complete jurisdiction over juvenile cases, and with the authority to decide in every instance what disposition is necessary; and if any children are to be tried by another court, the discretion to permit this trial should rest with the juvenile court.

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[1] People *v.* Alexander, 62 Cal. App. 306 (1922).

[2] Sams *v.* State, 133 Tenn. 188 (1915); State *v.* Coble, 181 N. C. 554 (1921); Harman *v.* Commonwealth, 204 Ky. 186 (1924).

[3] Stracner *v.* State, 86 Tex. Cr. Rep. 89 (1919).

[4] McLaren *v.* State, 85 Tex. Cr. Rep. 31 (1919).

[5] Orphan Asylum *v.* Soule, 5 Ohio App. 67 (1915).

[6] Brana *v.* Brana, 139 La. 306 (1916); Spade *v.* State, 44 Ind. App. 529 (1909); In re Hosford, 107 Kan. 115 (1920); Buffington *v.* Goldman, 152 La. 647 (1922); People *v.* Juvenile Court of Denver, 75 Colo. 493 (1924); State *v.* Trimble, 306 Mo. 657 (1925).

7. *JUVENILE COURT AS A FEDERAL PROBLEM*

A phase of the problem of juvenile delinquency heretofore much neglected is that in reference to children who violate federal laws and are taken before courts with federal jurisdiction. The type of courts and the methods used within federal jurisdiction differ greatly from those existing in most states.

The only juvenile court, properly so called, within the federal jurisdiction is that in the District of Columbia. The law which created it in 1906 provided for a separate court and a separate judge, who should be appointed by the President of the United States with the concurrence of the Senate for a period of six years, and is eligible for reappointment. The court was given jurisdiction over cases of delinquent, dependent, incorrigible, and truant children. In the case of *Brown* v. *Sellers*,[1] decided in 1923, the jurisdiction in truancy cases was denied by the Court of Appeals of the District of Columbia on the ground that it was taken away by the compulsory education act passed only a few months later than the juvenile-court law, and a petition for writ of *certiorari* was denied by the United States Supreme Court.[2] Its criminal jurisdiction is limited to crimes and offenses against the United States or against the District of Columbia "not capital or otherwise infamous and not punishable by imprisonment in the penitentiary" and not libel, conspiracy, and violations of the post-office and pension laws of the United States.[3]

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[1] 292 Fed. 655.

[2] 262 U. S. 702.

[3] 34 Stat. 73.

The adult jurisdiction of the court includes cases of contributing to the delinquency of children, cases involving the determination of paternity and the support of children born out of wedlock, and cases of violations of the child-labor law in the District.[1] The court has had no jurisdiction over truant children since 1923, but it was given jurisdiction by the new compulsory education act of 1925 to try parents, guardians, or others in charge of a child in case of a child's unlawful absence and it was given further jurisdiction over the case of adults who neglect or refuse to furnish any information required by the act. It had jurisdiction in non-support cases till 1922, when in the case of *United States* v. *Moreland*[2] the Supreme Court decided that an offender could not be proceeded against by information and sentenced to imprisonment in the District workhouse at hard labor. Hard labor was held to be punishment for an infamous crime within the meaning of the fifth amendment of the Constitution of the United States and, as such, could only be inflicted by indictment or presentment by a grand jury and not by information. The juvenile court has since then been, in effect, without jurisdiction in these cases.

The juvenile court in the District of Columbia was also greatly hampered by the fact that a delinquent child is defined as "one who has been convicted more than once" of violating a law, and the effect of this unique definition was practically to nullify the provision of the law to prosecute an adult as contributor, for a child had to be "found guilty" more than once before prosecution for contributing to delinquency could be initiated. Unlike the juvenile courts in progressive states, it is declared by law to be a criminal court and it is necessary to convict a child of a crime before he can profit by its beneficent work. As the criminal jurisdiction of the court is limited, it is often necessary to reduce the charge in order to bring all children violating the law into the court. For instance, a charge of larceny may be reduced to violating a police regulation. It has been estimated that fifty per cent of the cases now tried in the juvenile court are really felonies which would be tried in the Supreme Court of the District of Columbia were it not for the practice of reducing charges.[3] It does exercise something like equity powers in certain cases affecting children, viz., in dependency cases and in cases of incorrigible children, but not in cases where children are charged with violations of the law. Several efforts have been made to reconstruct the court but every effort has failed. Despite the criminal character of the proceedings, the actual administration of the court has been directed toward the development of procedure as free from formality as the law will permit, and the court has endeavored to conduct its investigations and the supervision of the children as far as possible in accordance with the principles of social case work.

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[1] In all cases of adults violating the old specific statutory enactments made for the protection of children's morals, jurisdiction seems to have been left in the adult courts. See R. W. Murray, *The Delinquent Child and the Law*, p. 52.

[2] 258 U. S. 433.

[3] Murray, *op. cit.*, p. 68.

Although the principles governing the juvenile court have been accepted, in theory at least, by every state but two, the federal laws, like the old criminal law, make no distinction between adults and children. In consequence, the United States courts, save the one operating in the District of Columbia, are still proceeding against children by the ordinary methods of arrest, detention in jail with adults, indictment by the grand jury, and final discharge or sentence of fine or imprisonment. A report by the United States Children's Bureau in 1922, entitled "The Federal Courts and the Delinquent Child,"[1] has called attention to the extent of this problem and the urgent need for remedial legislation.

Except in the District of Columbia, no separate provisions exist under federal law for jurisdiction over juvenile cases. The children who violate such federal acts as the postal, interstate commerce, internal revenue and drug laws, or those who are arrested for larceny of United States property, trespassing on United States property, forgery, and embezzlement of government property are under the jurisdiction of the United States district courts.

Although there is no law for the removal to the state courts of cases cognizable in the district courts of the United States, among many federal authorities a practice has developed of referring to the state courts, usually juvenile courts, cases of children violating federal laws by preferring charges which will bring them under the jurisdiction of the state courts. It was estimated that in 1918 and 1919 approximately thirty per cent of juvenile cases were so referred.[2]

The procedure in federal courts, when unmodified by the expedients adopted in some instances, is based on the theory that the child has committed a crime and he must be tried and punished with all formalities and constitutional safeguards in favor of persons charged with crime. There was no separate detention, no social investigation, and no scientific study of the child. Institutions, such as industrial schools, situated in the District of Columbia, to which federal juvenile delinquents are committed, are inconvenient and inadequate for federal courts in other parts of the country. Sometimes certain state and other local institutions receive federal juvenile offenders by contract.

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[1] Ruth Bloodgood, "The Federal Courts and the Delinquent Child," U. S. Children's Bureau, *Pub. 103.*

[2] *Ibid.*, p. 65.

Probation prior to 1916 was a discretionary act on the part of the federal judges. In 1916 the Supreme Court of the United States in the *Kilitz* case[1] ruled that federal judges had no legal power to place offenders on probation except from the Supreme Court of the District of Columbia, where a system of probation is legally provided. It was not until March 4, 1925, after several unsuccessful efforts, that a federal probation law, based on probation laws now in effect in a large majority of the states, was finally enacted by Congress.[2] By this act the federal district courts are authorized to suspend sentences and place offenders on probation "after conviction or after a plea of guilty or *nolo contendere* for any crime or offense not punishable by death or life imprisonment." Judges of the district court may appoint volunteer probation officers and each judge may appoint one salaried officer under civil service and with the approval of the Attorney General's Department.

The law, applicable both to adults and juveniles, will enable the federal courts to exercise sound discretion in placing offenders on probation under suspended sentence. Especially will it enable them to deal somewhat more adequately with youthful offenders, although they will still be subjected to criminal procedure. It is not always realized that the federal courts handle all classes of offenders. It was estimated that in 1918 and 1919 approximately 1,000 children under eighteen years of age were dealt with yearly by the federal courts.[3]

Prior to the passage of the federal probation law, the federal judges frequently resorted to subterfuge rather than to commit or to fine youthful offenders where such course seemed obviously inhumane and anti-social. The most common expedients were reference to a state juvenile court on preferred charges, short-term jail sentences, informal reporting to the United States attorney, without pressing the case during the child's good behavior, and nominal punishments, such as a small fine or a sentence of one day in the custody of the United States marshal. These were most unsatisfactory substitutes for probation. There were no facilities for ascertaining social facts about the child and his environment, and no means for the intensive supervision and constructive work which are the basis of good juvenile-court work. In many of the federal courts, the new probation law is now in operation, but how far it will remedy these conditions depends upon its proper administration and is a question for the future.

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[1] 242 U. S. 52.

[2] 43 Stat. 521.

[3] Bloodgood, *op. cit.*, p. 64.

At present there are several possibilities which suggest themselves for handling federal cases involving children: first, modification of federal procedure in children's cases, so that an informal chancery procedure will be possible; second, the successful use of the new probation powers by the federal courts in juvenile cases; third, a definite system of reference to state juvenile courts, preferably at the beginning of the case; and fourth, a systematic utilization of state institutions to which the federal courts may commit children.[1]

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[1] It is interesting to note that in Oklahoma (Compiled Statutes of Oklahoma, 1921, ch. 70, art. 4) and Alabama (Laws of Alabama, 1919, No. 146, sec. 3) a delinquent child is defined by law, among other things, to be one who violates any federal law. This seems to offer another solution of the problem of juvenile delinquents within federal jurisdiction, but the constitutionality of this provision has yet to be tested, for it may amount to a delegation of legislative powers.

Chapter IV

EXTENT OF JURISDICTION

The extent of the jurisdiction of the juvenile court, as distinguished from its system of jurisdiction, relates to persons and cases instead of to the place of the juvenile court in the judicial branch of government or the types of geographical units served. Obviously, the law dealing with children must specify the age limit under which the court has jurisdiction and the conditions which call for the interference of the court. In other words, it must specify what is a child and in what cases or over what classes of children and, in some instances, over what adults the juvenile court has jurisdiction.

1. *AGE LIMITATION*

a. *Variations between States*

A juvenile-court law invariably defines the legal meaning of "a child." The age limit under which the court may obtain jurisdiction in children's cases varies from sixteen to twenty-one years in different states. The age limit for all classes of children of both sexes is eighteen in fourteen states, seventeen in four states, sixteen in thirteen states, and nineteen in one state. Twenty years as the age limit is adopted for boys in Maryland except in the city of Baltimore. Twenty-one years, the highest age limit, is adopted in Arkansas (jurisdiction is concurrent with criminal courts) and California (jurisdiction is exclusive to eighteen only). In all other states, a disctinction in age limit, ranging from sixteen to eighteen, is made according to sexes, classes of children, and, in a few instances, localities.[1] Whenever a distinction is made, the age limit for girls is usually higher than that for boys and the age limit for dependent and neglected children is usually lower than that for delinquent children. True to the purpose of the juvenile court, there is generally no minimum age limit under which the court cannot take cognizance, but in a few places, such as Newark, Buffalo, and New York City, a minimum age limit, usually seven years, is fixed by law. In view of the inconsistent disparity of age limit among states, there seems no sound reason for not adopting a uniform age limit for all classes and both sexes. The tendency of the more recent statutes has been to increase the age limit to the eighteenth birthday in conformity with the recommendation of the committee appointed by the United States Children's Bureau in 1921 to formulate juvenile-court standards.[1]

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[1] See notes, prepared by F. H. Hiller, on "Standard Juvenile Court Law," *Proc. Natl. Probation Assoc.*, 1925, p. 199. In 1924, Iowa raised the age limit for delinquent and dependent children to 18 years.

b. *Continuity of Jurisdiction Once Obtained*

Saving a child usually is not a brief task. The hearing and adjudication mark not the end but the beginning of the work of the juvenile court with the child. For this reason, most juvenile-court statutes provide that jurisdiction once obtained over any minor may continue beyond the age limit, especially in relation to commitments, until the child attains his majority or until he reaches twenty-one, unless the case has been dismissed or has passed out of the jurisdiction of the court before that time.

An anomalous situation may arise out of this provision, because if a child over the age limit but below twenty-one has a court record of previous delinquencies, he may be dealt with by the juvenile court for a new offense, but if he has no previous record, he must be tried for his offense in the criminal court. As a matter of fact, however, many juvenile courts do not attempt to deal with delinquents above the maximum age but allow them to be prosecuted in the ordinary criminal court, even if technically these courts have jurisdiction over them.[2]

When rightly construed, however, this provision seems to mean that when the juvenile court obtains jurisdiction of a delinquent, its retention of that jurisdiction until such delinquent attains his majority is a retention for the purposes of the proceeding in which jurisdiction was obtained, and is not to be construed as excluding the jurisdiction of the criminal court to proceed against the youth, after he attains the age above which the criminal court is given jurisdiction over charges of crime committed between that time and his attainment of majority.[3]

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[1] See Appendix I, p. 222.

[2] *Cf.* Helen R. Jeter, "The Chicago Juvenile Court," U. S. Children's Bureau, *Pub. 104*, p. 15.

[3] State *v.* Pence, 303 Mo. 598 (1924).

c. *Termination of Jurisdiction by Marriage*

An interesting question often arises when a girl reaches her majority, which is usually earlier than that required of boys, and when a girl under the age limit is married. Complexities arise in such cases because of the fact that the terms of juvenile-court statutes generally apply to minor children, and there are often statutes providing that females married to persons of full age shall be taken to be of full age. It has been generally held that the provision that the jurisdiction of the court may continue through the minority is to be taken liberally and does not necessitate the release of a girl delinquent when she reaches the age of majority.[1] Nor does that jurisdiction terminate in the case of a girl who is married, when under age or even when she reaches her majority, to a person of full age, if the statute provides that jurisdiction or commitment may continue until she is twenty-one.[2] The principle upon which the decisions rest is that the law defining delinquent and dependent children makes the age, not minority, the controlling element, and that the jurisdiction of the court is not to cease merely because a delinquent or dependent enters into marriage relation. But in two Oregon cases,[3] it was held that a female minor, if married, cannot be a delinquent child, and that on marriage the child loses her legal status as a child within the meaning of the law. As a matter of fact, in many cases, a married girl who is under the age limit is as much in need of the care and protection of the juvenile court as an unmarried one, and, if the best interest of the child is the paramount consideration, she should be dealt with as a juvenile under the juvenile-court law.[4]

d. *Increase of Age Jurisdiction*

The increase of age jurisdiction, or rather the treatment of the adolescent offender, is a question both significant and interesting. Should the age jurisdiction of juvenile courts be increased? Should a special adolescent court be created? Or should a special procedure in existing courts be established? These questions merit careful consideration from every angle.

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[1] Ex parte Gilder, 98 Wash. 514 (1917).

[2] McPherson *v.* Day, 162 Ia. 251 (1913); In re Lundy, 82 Wash. 148 (1914); Stoker *v.* Gowans, 45 Utah 556 (1915); Ex parte Willis, 30 Cal. App. 188 (1916); In re Hook 95 Vt. 497 (1922).

[3] State *v.* Eisen, 53 Ore. 297 (1909); State *v.* Gates, 98 Ore. 110 (1920).

[4] For a discussion of these cases see "Marriage as Affecting Jurisdiction of Juvenile Court over Delinquent or Neglected," 19 *A. L. R.* 610. It should be noted in this connection that under most laws the enforcement of child-labor and compulsory education laws is not affected by marriage.

When the increase of age jurisdiction is viewed in the light of psychology and psychiatry, whatever chronological age cleavage is legally adopted for administrative needs, it is evident that it must necessarily be more or less arbitrary. It cannot be accepted by the psychologist, for it cannot conform to the varying degrees of development and capacities among individual children. It is very apparent that it is arbitrarily unjust that a boy one day less than eighteen years old and another boy one day over eighteen, who commit the same offense, are subject to different laws, different examination, different care, and different punishment. To be consistent, therefore, if we are fully convinced that psychology and psychiatry contribute important factors in the treatment of the offender as an individual, his mental age and not his chronological age should determine the jurisdiction of a court.

Admitting that, under normal conditions, there must be some boundary-marks somewhere, and that the time has not yet come to apply to adult offenders the principle which motivated the development of the juvenile court, it may be said that with regard to delinquent children the eighteenth birthday, adopted by most states and recommended by the Committee on Juvenile-Court Standards, seems to be a more logical dividing line than any other age between adulthood and the preparatory period which precedes it, according to physical growth, changes in personality, and the unfolding of reason. The extension of age jurisdiction with respect to dependent and neglected children up to eighteen is both logical and desirable. As a dependent or neglected child is a victim rather than an offender, this increase would tend to modify the effects of parental neglect and to prevent much of the harm that now befalls these young persons.

Viewing the increase of the age jurisdiction of the juvenile court as an administrative problem, we are at once confronted with practical difficulties. As the older youth is more likely to be involved in cases, with the increase of the age jurisdiction, a great number of additional cases would thus be thrust upon the juvenile courts, upon the probation staffs, upon the institutions and upon the various other agencies.[1] It has been estimated that if the age limit in the children's court of New York City should be raised from sixteen to eighteen, the change would probably more than double the number of cases in the already overburdened court.[1]

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[1] See A. W. Towne, "Shall the Age Jurisdiction of Juvenile Courts Be Increased?" *Jour. Crim. Law*, 10:506-509, February, 1920.

In order to avoid the evils of handling the cases of young adults in the ordinary criminal courts and to avoid many practical difficulties in increasing the age jurisdiction of the juvenile court, special courts or parts of courts, usually branches of the police court, have been set up for the trial of charges against adolescent offenders. The first innovation of this kind came about in 1914, when the Chicago Municipal Court instituted a special part known as the "boys' court," which tries misdemeanor and quasi-criminal cases against boys from seventeen to twenty-one.

The primary purpose of such a court is to keep youth apart from adult criminals. It is not a juvenile court, but a regular criminal court with some modifications in procedure. The wisdom of this institution may not be open to serious question, but it is, at best, a halfway measure and does not have the positive and constructive merits of the first method, that of increasing the age jurisdiction of juvenile courts. During 1921 the number of cases filed in the Chicago Boys' Court was 8,521, of which 62 per cent resulted in discharges. Doubtless, many of these would have been found delinquent and dealt with accordingly if the procedure had been that of the juvenile court.[2]

As an alternative to the increase of the age limit and the creation of a special court, special procedure may be established in existing courts. A magistrate may be authorized to transfer an older child to a juvenile court, and a juvenile judge may be authorized to transfer an older child to an adult court, if they think that the youths can be treated better in another court. In some places older youths committing serious crimes may be tried in juvenile courts under certain conditions. For instance, the age limit in delinquency cases in Colorado is eighteen, but the jurisdiction is exclusive only up to sixteen. A person over sixteen years of age, who committed crimes of violence punishable by death or imprisonment for life, may be tried in the criminal court, or in the juvenile court under criminal procedure.[3] It is also interesting to note that in some counties of Wisconsin where the same judge presides over the juvenile court and the criminal court, he is now hearing cases of youths of eighteen to twenty-one in juvenile court without special warrant of law.[1]

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[1] Charity Organizations Society of the City of New York, Committee on Criminal Courts, *The Adolescent Offender; a Study of the Age Limit of the Children's Court*, p. 34.

[2] E. H. Sutherland, *Criminology*, p. 290.

[3] Laws of Colorado, 1923, ch. 75.

The arguments for the increase of the exclusive jurisdictional age of the juvenile court are usually based on theory, on sentiment, and on supposed legislation in certain states. Theory and sentiment, of course, do not bear analysis. A lightly considered increase of the age limit may defeat the very purpose of the law. Some of the most dangerous criminals are between the ages of eighteen and twenty-one, or thereabouts. Legislation in certain states does not often tell the whole story. In states with a higher age limit for children's cases, either the juvenile courts do not have exclusive jurisdiction over delinquency cases or they have no jurisdiction over children committing serious offenses.

The question as to the increase of the age jurisdiction of juvenile courts cannot be answered in isolation. Many practical difficulties must be smoothed out before making any change. There should be a harmonious correlation of juvenile-court laws with those affecting institutions and other phases of child welfare. In general, we may say that if the age limit is to be raised at all, it should be done by increasing the age jurisdiction of the juvenile court. The second method does not offer the solution of the problem, and the last method is open to the same objection that is found in the arbitrary transfer of cases from one court to another.[2]

2. *CLASSES OF CASES OVER CHILDREN*

In most of the states having juvenile courts, the law covers dependent, neglected, and delinquent children. The differentiation in law is not always clear, for in many cases a child may be classified one way or another. In many statutes, the terms "dependent" and "neglected" are used interchangeably, although the recent tendency is to give these two terms distinctive meanings. In a few states, the term "destitute" children has been used to embrace children defined under other laws as dependent. In some states to these three classes of cases, children who are mentally or physically defective, children who are truant, illegitimate, incorrigible, wayward or abandoned, and children who are found violating the child-labor law are added as distinct groups; but, in reality, most of these classes are only parts of the larger problems of delinquency, dependency, and neglect.

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[1] F. H. Hiller, *Probation in Wisconsin*, pp. 79-80.

[2] *Supra*, p. 40.

Laws in a few states contain no definitions of the groups of children over whom the court is to exercise jurisdiction, but merely define the specific conditions for which a child may be brought into court. The California juvenile-court law, for instance, defines fourteen conditions which may bring a child under the jurisdiction of the court, including conditions usually covered by the definitions of delinquency, of dependency, and of neglect, and, in addition, mental defect.[1] The child is adjudged in all cases as a ward of the juvenile court in need of care and protection rather than as a delinquent or a dependent or a neglected child. This is thought by some to be more in harmony with the purpose of the juvenile-court law than most of the laws which define delinquency and dependency more or less in terms of the criminal law.

a. *Delinquency*

The delinquent child presents by far the greatest problem for juvenile courts, for the nucleus of the ordinary business of a juvenile court is composed of cases of delinquency. The survey made by the Children's Bureau in 1918 shows that fifty-seven per cent of the cases in courts hearing children's cases were delinquency cases.[2]

The legal definition of delinquency differs in different states. In a few states the courts deal only with those juvenile offenders who are charged with violating a law, committing a criminal offense, or being incorrigible. In most states, however, a broad definition of delinquency, which generally includes certain acts which are not punishable if committed by adults, and which may not have been misdemeanors if committed by minors before the juvenile-court law was passed, is formulated in the statute in order that the court may not be prevented by the lack of technical jurisdiction from assuming the care of any child.

As delinquency is unknown to the common law, we must look exclusively to the statute for its legal definition.[3] A delinquent child is commonly defined by statutes as any child under a certain year of age who (1) violates a state law or local ordinance (offenses which, if committed by an adult, are punishable by death or life imprisonment are often excepted[1]); (2) is wayward, incorrigible, or habitually disobedient; (3) associates with thieves, criminals, prostitutes, vagrants, or vicious persons; (4) is growing up in idleness or crime; (5) knowingly visits a saloon, pool room, billiard room, or gambling place; (6) knowingly visits a house of ill-fame; (7) wanders about streets at night; (8) wanders about railroad yards, jumps on moving trains, or enters any car or engine without authority; (9) habitually uses or writes vile, indecent, or obscene language; (10) absents himself from home without just cause or without the consent of parent or guardian; (11) is immoral or indecent; or (12) is an habitual truant.

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[1] Laws of California, 1915, ch. 631.

[2] Belden, *op. cit.*, p. 11.

[3] State *v.* Dunn, 53 Ore. 304 (1909).

The inclusiveness of the definition of delinquency differs in different states mainly for the reason that some states classify a condition as delinquency which other states consider as dependency or neglect. The definition of delinquency given above is comprehensive enough to include all children who deport themselves in such a way as to injure or endanger the morals or health of themselves or others.

b. *Dependency and Neglect*

Juvenile-court statutes generally define dependency and neglect in the broadest of terms so as to include all children who need care and protection of the state. The dependent or neglected child is usually defined as any child under a certain year of age who is (1) destitute, (2) homeless, (3) abandoned, (4) dependent upon the public for support, (5) without proper parental care or guardianship, (6) begging or receiving alms, (7) found living in a house of ill-fame or with a vicious or disreputable person, (8) in a home unfit because of neglect, cruelty, or depravity on the part of the parents, (9) peddling or playing a musical instrument or singing in a public place, (10) in surroundings dangerous to morals, health, or general welfare, or such as to warrant that the state assume guardianship. To these conditions are often added one or more of the twelve provisions enumerated under the definition of delinquency, except the provision concerning violation of law or local ordinance. In some states the dependent or neglected child is defined in much greater detail so as to include children who are vagrant, orphan, and illegitimate, or one who uses drugs, cigarettes, or tobacco, or intoxicating liquor.

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[1] This is true in Delaware, the District of Columbia, Idaho, Iowa, Louisiana, Massachusetts, New Jersey, New York, North Dakota, Rhode Island, Utah, and Vermont.

When dependency and neglect are defined separately, the former usually refers to the inability of those legally responsible for a child to provide or care for him, or the nonexistence of such persons; while the latter refers to improper guardianship or wilful neglect by an adult who is responsible for the child.

The juvenile court in Colorado also administers the so-called Maternity Law, which entitles prospective mothers, including unmarried mothers, to all their maternity expenses and to support for six months before and after childbirth in proper cases under the act.[1] As a matter of fact, this is a combination of the dependency law for the unborn child, or the child from the time of his conception (as distinguished from the time of his birth), and the chancery procedure of contributing to dependency used in connection with this law. The law is to be administered in the same way as the mothers' compensation law.

c. *Mentally Defective Children*

In some states, as in Minnesota, Colorado, and New York, the juvenile court is given jurisdiction over mentally defective children and has authority to commit them to institutions. Jurisdiction over defective children may be had in several ways. They may be defined simply as dependent or neglected, as they are almost always dependent or neglected, or they may be committed as a consequence of their delinquency, dependency, or neglect, or they may be treated as defective regardless of whether or not they are also delinquent, dependent, or neglected.

It is believed that the case of the mentally defective child is so closely analogous to that of the dependent and neglected child that the court having authority over the latter should be given jurisdiction over the former. With its clinical facilities and probation staff, the juvenile court seems to be the best agency to make a thorough diagnosis and to carry out a wise treatment. Whenever commitment is desirable, it should not be necessary to resort to another tribunal.

3. *CLASSES OF CASES OVER ADULTS*

a. *Contributing to Delinquency and Dependency*

An effective measure for preventing juvenile delinquency and dependency is not complete unless it includes the operation of corrective influences on parents or other adults, whose wrongful acts, active encouragement, indifference, or indulgence are often the real causes of the troubles of children. For this reason, jurisdiction over adults contributing or tending to contribute to delinquency and dependency of children has been vested in the juvenile court in the majority of the states that have enacted laws on this point.[1]

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[1] Laws of Colorado, 1923, ch. 77.

Contributing to delinquency or dependency on the part of adults is made a crime, usually a misdemeanor, punishable by a fine or imprisonment or both, in all the states which have contributing laws except Iowa, and is prosecuted through the usual processes of criminal procedure. Kentucky adopted equity procedure in contributing cases in 1908, but the law was repealed in 1910 as impracticable. Iowa adopted the same principle in 1913, but it applies only to contributing to dependency and neglect. Clearly, this jurisdiction, whether given to criminal or juvenile courts, unless otherwise provided, is criminal in nature.[2]

The adult contributory laws vary in scope and in efficacy. The jurisdiction of the juvenile court over contributing cases is exclusive in some states and concurrent in others. It is usually held to be concurrent unless otherwise provided.[3] Some statutes apply only to delinquency or only to dependency but most of them apply to both kinds of responsibility. In a few state, as in Nebraska, the law applies only to parents or guardians or persons having custody of the child, but in most states the statutes include the acts or omissions not only of parents or guardians but also of any offending adult, because the offense does not rest upon the breach of an obligation arising out of status, but can arise whenever an adult acts in a manner contrary to a child's welfare. Nevertheless, the Colorado court, while upholding the contributory statute, refused to apply it, except in the case of a parent or person having custody of the child,[4] and the Illinois court held that only those who stand *in loco parentis* to the child can be prosecuted,[5] although the Illinois statute expressly includes any person who contributes to juvenile delinquency. Fortunately, these decisions do not seem to have influenced the courts in other states, and contributory statutes have almost universally been held constitutionally valid if constitutional rights were guaranteed to the offending adult,[1] and if the statutes did not attempt to confer jurisdiction upon a court which does not have general criminal jurisdiction.[2]

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[1] Cases cited below include those cases which arose in courts other than juvenile courts in order to give a clearer idea of the general legal principles involved in contributing cases.

[2] People *v.* Budd, 24 Cal. App. 176 (1914); Mayhew *v.* State, 189 Ind. 545 (1920); Longsine *v.* State, 105 Neb. 428 (1920); Pease *v* State, 74 Ind. App. 572 (1921).

[3] State *v.* Chapman, 131 Wash. 583 (1924).

[4] Gibson *v.* People, 44 Colo. 600 (1908). The effect of this decision was nullified by later amendments. See Laws of Colorado, 1923, ch. 76.

[5] People *v.* Melville, 265 Ill. 176 (1914); People *v.* Lee. 266 Ill. 148 (1914).

One of the most significant legal questions in contributing cases is whether or not, in the absence of express provision, or if the provision is ambiguous, it is essential to the jurisdiction of the court to allege and prove that the defendant's acts or omissions actually resulted in the child's delinquency or dependency. In other words, has the child to be found or adjudged delinquent or dependent before complaint against the adult can be made? Authorities are far from agreement on this question. The weight of opinion seems to be that an adult's guilt of contributing to delinquency should not depend on the child's being or becoming delinquent.[3] As the purpose of these statutes is to prevent delinquency and dependency as much as to punish those who cause them, to require the prosecution to prove that the defendant's acts or omissions had actually resulted in the minor's delinquency or dependency would be practically to defeat the purpose of the law. This difficulty has been generally obviated by a provision in more recent statutes to the effect that tending to cause delinquency or dependency is an offense in itself, thus making it unnecessary for the court to find that delinquency or dependency actually exists. In order to sustain the conviction, the acts or omissions, of course, must be found to have had some effect upon the child.[1] The previous delinquency or dependency of the child furnishes no excuse to the offender, for the act need not be the sole cause of the minor's delinquency or dependency, but it is enough if the act complained of causes the continuation of the same.[2] On the principle of and in analogy with cases of statutory rape and abduction, the ignorance of the age of the child is not usually an excuse for contributing to his delinquencies, but in a Virginia case it was held that in order that the defendant may "knowingly" encourage a girl to delinquency, he must have been aware of her age.[3]

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[1] Commonwealth *v.* Yungblut, 159 Ky. 87 (1914); Fisher *v.* State, 84 Ohio 360 (1911); People *v.* de Leon, 35 Cal. App. 467 (1917); State *v.* Clark, 146 La. 421 (1920). In *Mill* v. *Brown*, 31 Utah 473 (1907), the contributing clause was held invalid, for it denied constitutional guarantees.

[2] Attorney-General *v.* Lacy, 180 Mich. 329 (1914).

[3] That actual delinquency of child need not be charged: State *v.* Dunn, 53 Ore. 304 (1909); State *v.* Drury, 25 Idaho 787 (1914); State *v.* Adams, 95 Wash. 189 (1917); People *v.* de Leon, 35 Cal. App. 467 (1917); People *v.* Cohen, 62 Cal. App. 521 (1923). For contrary assertions see People *v.* Pierro, 17 Cal. App. 741 (1911); People *v.* Mason, 181 Ill. App. 718 (1913); State *v.* Ferguson, 132 S. E. 665 (N. C. 1926). In the case of *People* v. *Hopkins* (203 N. Y. S. 653), decided in 1924, the Supreme Court of the State of New York declared that the contributing clause of the Children's Court Act of 1922 was unconstitutional on the ground that the legislature exceeded its power to confer upon children's courts jurisdiction to try offenses committed by adults against children, irrespective of the relation of such offense to the "delinquency, neglect or dependency" of any child (Const. art. 6, sec. 12, as amended November 18, 1921). An appeal to the New York Court of Appeals was dismissed on the ground that it has no jurisdiction to review decision of that court reversing judgment of children's court (239 N. Y. 589, 1924). The decision has been confirmed in *People* v. *De Pue*, 217 N. Y. S. 205 (1924).

Sometimes statutes specify the acts on the part of adults, which are punishable for contributing to juvenile delinquency or dependency, such as selling liquors to minors, enticing minors into houses of prostitution, and permitting minors to remain in gambling houses; but, in general, the enumeration of specific acts in the statute is more illustrative than definitive.[4] The more recent statutes generally do not particularize the acts or omissions which may contribute to a minor's delinquency or dependency, but define them merely by their tendencies, effects, or consequences, and adopt the definition of the terms "delinquent child" or "dependent child" from the juvenile-court law. It is intended that these words should be given the same meaning as they have in that law.[5] It is intended more particularly to cover instances of misconduct by adults, not otherwise provided for by statute.[6] A great majority—in some places as high as ninety per cent—of contributing cases involve sex offenses; the remainder are usually in behalf of boys—pool room cases, and so forth. It has been generally held that acts of illicit sexual intercourse, lewd acts upon or with a minor, enticing a minor to disrobe and to expose in a nude condition, taking indecent liberties with a minor, enticing a minor to lead an immoral life, selling liquors to a minor, and inducing a minor to a gambling house are covered by statutes.[1] It has been held that the failure of a householder to protect a female minor from assault in his home makes him guilty of contributing to her delinquency.[2] Some courts have gone farther than this. A California court convicted an adult for contributing to the dependency of certain minors because of his adulterous relation with their mother, causing her to neglect and desert her children, but the judgment of the lower court was reversed by the Supreme Court of that state on the ground that the effect of the alleged offense upon the minors is too remote, that it must have not only a possible but an inevitable effect upon the minors, and that a defendant is entitled to a clear statement of the offense with which he is charged.[3]

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[1] People *v.* Bergotini, 172 Cal. 717 (1916); People *v.* Hall, 183 N. Y. 46 (1920); People *v.* Salisbury, 59 Cal. App. 299 (1920); People *v.* Day, 152 N. E. 495 (Ill. 1926).

[2] People *v.* Wilhite, 49 Cal. App. 246 (1920); State *v.* Taylor, 209 N. W. 287 (Ia. 1926).

[3] Gottlieb *v.* Commonwealth, 126 Va. 807 (1920).

[4] But see Longsine *v.* State, 105 Neb. 428 (1920).

[5] People *v.* Day, 152 N. E. 495 (Ill. 1926).

[6] State *v.* Dunn, 53 Ore. 304 (1909).

Although adult contributory laws have been in force in many states for a number of years and have been uniformly approved, it can be stated with reasonable accuracy that, with the exception of a few places, these laws have not been generally enforced and have not produced the results anticipated. The enforcement of these laws, like the enforcement of any other law, depends largely upon the facilities of the court, the zeal of the officers, and the sentiment of the community. The increasing number of contributing cases in recent years shows a new vigor in enforcing these laws, but these cases deal mainly with cases of offenses against children, especially sex offenses, punishable by other statutes in the jurisdiction. They are in reality preferred charges. These laws remain to be enforced more vigorously in those cases for which they are mainly intended. In order to handle this class of cases properly, one and the same court—a juvenile court—must have both criminal and chancery jurisdiction, including the power to suspend sentence and to use probationary supervision, so that proper treatment may be given. The experiments in removing criminal punishment have not proved altogether satisfactory in Kentucky and Iowa.

It is interesting to note that Colorado is perhaps the only state which extends to adult cases the chancery-court idea. The juvenile courts in Colorado extend to almost all types of adult cases the idea of chancery, although criminal-court procedure may be resorted to when the occasion demands. This is made possible by the chancery court act relating to contributory delinquency and dependency[1] and the Redemption of Offenders Act.[2] Under the latter act, misdemeanor cases may be tried in the chancery court at the discretion of the district attorney. It has been the one most applied to adult offenders guilty of such felonies as non-support, desertion, statutory rape, bootlegging, and so forth, since the district attorney may reduce the charge to one of misdemeanor in case of felony. In recent years, it has also been the practice in Colorado, especially in Denver, to handle such cases under chancery procedure relating to contributory delinquency and dependency, and especially dependency, filed by probation officers, since it is often difficult to get the prosecuting officers to institute proceedings under the Redemption of Offenders Act and it is much simpler to resort to the former act.[3] In Arizona, procedure in adult cases may be informal, but it is still criminal in nature.[4]

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[1] *Cf.* the following cases: Murphy *v.* State, 61 Ind. App. 226 (1916); People *v.* Young, 44 Cal. App. 279 (1919); People *v.* Camp, 42 Cal. App. 411 (1919); People *v.* Crane, 302 Ill. 217 (1922); People *v.* Gilmore, 150 N. E. 631 (Ill. 1926); People *v.* Lamanuzzi, 246 Pac. 557 (Cal. App. 1926).

[2] State *v.* Lehman, 125 Wash. 617 (1923).

[3] People *v.* Bergotini, 172 Cal. 717 (1916).

b. *Offenses against Children*

Some states, as Virginia and Colorado, give juvenile courts jurisdiction over offenses committed by adults upon children. It sometimes includes any criminal case against an adult person for violation of any criminal law when the offense is against the person or involves the morals of a child, and sometimes it does not include offenses punishable by death or hard labor. The jurisdiction is usually concurrent with other criminal courts; but where the statute is ambiguous, it has usually been held that exclusive jurisdiction belongs to the criminal court.[5] When the offense is of a minor nature, the juvenile court often assumes jurisdiction under the provision of the statute relating to adults who contribute to juvenile delinquency.

c. *Desertion and Non-Support*

In about ten states the juvenile court or, as it is often called in this case, the domestic relations court is given jurisdiction over cases of desertion and non-support. The jurisdiction of the juvenile court over these cases is usually concurrent with other courts. In some courts, as in San Francisco, it can be exercised only in cases in which children are already wards of the court. As neglect of parental duties and juvenile delinquency are often interlocking evils, the juvenile court would seem better adapted to handle these cases than other courts.

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[1] Laws of Colorado, 1923, ch. 76.

[2] *Ibid.*, 1909, ch. 199.

[3] For some aspects of the operation of these laws see Ben. B. Lindsey, "The Trial of Criminal Cases and Adult Probation in the Chancery Court," *Proc. Natl. Probation Assoc.*, 1925, pp. 70-86.

[4] Penal Code, 1913, ch. 111, sec. 261.

[5] Colias *v.* People, 60 Colo. 230 (1915).

4. *CLASSES OF CASES OVER CHILDREN OR ADULTS*

a. *Illegitimacy*

A few juvenile courts have jurisdiction over illegitimacy cases. This jurisdiction may be exercised over the parents or the child or both. It is exercised over parents to establish the paternity of the child born out of wedlock and to compel his support, as in New Jersey. The advantages of having these cases tried in a socialized court are that an informal and private hearing may afford the mother better protection from needless publicity and humiliation than in other courts, and that the juvenile court has facilities for investigation and is in a position to exercise a continuing supervision and control over all parties concerned in regard to both custody and support, with power to modify its orders as changing conditions may necessitate. When the jurisdiction is exercised over illegitimate children, they are dealt with either as such, as in Oregon, or as dependent or neglected, as in Minnesota.

The wisdom of vesting the juvenile court with the authority to assume parental care and protection over illegitimate children has not been questioned. As it has been generally estimated, illegitimate children contribute largely to the classes of dependent and neglected children, and contribute more than their share to the number of juveniles who come in conflict with the law or who are wayward and difficult to control. This is partly because of the fact that mentally defective persons, especially feeble-minded girls and women, are probably more likely to have illegitimate children than the mentally normal, and partly because of the absence of normal home life and parental care, attended by the detrimental conditions so frequently accompanying birth out of wedlock.[1]

b. *Truancy*

Recognizing that habitual truancy is one of the chief causes of juvenile delinquency and is often merely the evidence of the default of the parents in their duties, most truancy laws vest in the juvenile court jurisdiction over the truant or the parents or both. In about twenty states, the juvenile court is given power to compel the child to attend school, and in about five states further power is given to make such orders as are necessary to make the parent or guardian comply with the compulsory school-attendance law. In some states, as Michigan, Minnesota, and North Carolina, truancy is included in the definition of delinquency, and truant children are dealt with as delinquents.

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[1] *Cf.* Emma O. Lundberg and Katharine F. Lenroot, "Illegitimacy as a Child-Welfare Problem," Part 2, U. S. Children's Bureau, *Pub. 75*, pp. 36-72.

c. *Violations of Child-Labor Laws*

In some states, such as Delaware, Colorado, Missouri, and Utah, and the District of Columbia, the juvenile court is given jurisdiction over the case of an adult violating the child-labor law. Authorities generally believe that such cases, if properly handled, do not involve the presence of the child in court as a witness at all and that they should be handled as are other cases of violation of labor laws. In other states, such as Illinois, Indiana, Iowa, Kansas, Oregon, and Wisconsin, employment certificates or work permits for children in certain occupations, especially theatrical occupations, are required to be issued by the judge of the juvenile court. In still others, such as Arkansas and California, probation officers are specifically enumerated in the list of those persons responsible for the enforcement of the child-labor law. The judge of the juvenile court in some states, such as Louisiana and Washington, is given power to exempt children from the operation of the child-labor law under certain conditions. In states and cities, as in Rhode Island, which regulate street trading by children, violations of the ordinance are usually considered delinquencies to be dealt with by the juvenile court.

The justification of vesting this jurisdiction in the juvenile court lies chiefly in the fact that the abnormal demand for child labor, like the disorganization of the compulsory education laws, has long been considered an important factor leading to juvenile delinquency. It has been found that children who work furnish the juvenile court with a slightly larger number of cases and a much larger proportion than the non-working children.[1]

d. *Mothers' Allowances*

The juvenile court administers the so-called mothers' allowance, mothers' aid, widows' compensation, or mothers' pension law in twenty-one out of forty-two states which have enacted laws on the subject.[1] The mothers' pension or, more accurately, public aid to dependent children in their own homes because of the death, disability, incarceration, or desertion of the father is really a part of the dependency problem and an outgrowth of the dependency jurisdiction of the juvenile court. Juvenile judges objected to children being taken from their mothers because of poverty alone, but the only state funds available under the old law were funds for institutional support. The primary purpose of the mothers' pension law is to prevent the separation of mothers and children by committing children to institutional care, and to enable the mother to give them proper home care without exhausting herself in earning a living. The movement is distinctly a protest against much-discredited older forms of public relief and is in line with the proposition, put forth by the White House Conference on the Care of Dependent Children, called by President Roosevelt in 1909, that children should not be deprived of home care except for neglect or other compelling reasons.[2]

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[1] United States, "Report on Woman and Child Wage-Earners," 1910, Vol. VIII, *Juvenile Delinquency and Its Relation to Employment*, p. 37.

Differences in the types of administrative agencies are traceable for the most part to differences in local conditions. In the Middle West, where the first mothers' pension law was passed almost simultaneously in Missouri[3] and Illinois in 1911, the administration was usually placed in juvenile courts. In administering the law, the juvenile judge is usually given wide discretionary powers, but realizing his inability without aid to supervise the administration of the law, he has often to resort to outside agencies for assistance. In Chicago a special committee, appointed by the judge but made up of members of private charitable societies, examines, and passes upon all applications for pensions, and its recommendations are generally accepted by the judge as a matter of course. Similar outside assistance is employed in a number of other courts, as those in Minneapolis, Denver, and Seattle. The Minneapolis juvenile court has the assistance of a semiofficial advisory board. The juvenile court in Denver has designated the city and county bureau of charities as its agent in the administration of the mothers' pension and, in addition, of the maternity law enacted in 1923.[1] The mothers' pension in Seattle is administered by a separate department of the juvenile court in charge of a commissioner.[2]

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[1] One of these States, Missouri, places this jurisdiction in the juvenile court only in Kansas City. See Emma O. Lundberg, "Public Aid to Mothers with Dependent Children," U. S. Children's Bureau, *Pub. 162*, p. 9.

[2] "Proceedings of the Conference on the Care of Dependent Children held at Washington, D. C., January 25-26, 1909," 60th Cong. 2nd Sess. Sen. Doc. No. 721, 1909, p. 9.

[3] In Missouri, the law applied at first only to Jackson County, in which Kansas City is located.

In some localities splendid work has been done. But in general, the law is poorly administered either because of lack of facilities or because of inadequacy of appropriations. The importance of the work needs no emphasis if we only bear in mind that by 1924, at one time approximately 130,000 children were receiving aid, and about 43,000 families were being kept together at an annual cost of millions of dollars.[3] In Cook County alone, where the law was fairly well administered, 1,165 families were being kept together through mothers' pension grants on November 30, 1923; the average number of families helped throughout the year was 1,114. The mother who is made a pensioner receives $25 a month for the first child and $15 a month for each additional child. The average grant per family was $50.57. The total grant for the year amounted to a little more than $676,000.[4]

e. *Other Jurisdiction*

In some states, such as Colorado, Alabama, Delaware, and North Carolina, the juvenile court has been given jurisdiction of all cases of controversy over the custody of children. In others, as in Louisiana, the juvenile court has jurisdiction over the violation of any law for the protection of the physical, moral, or mental well-being of children, not punishable by death or hard labor. The juvenile court in Missouri has jurisdiction over all cases of transfer of custody or control of a child. In Indiana, the juvenile court has jurisdiction over all cases where the custody or legal punishment of a child is in question. The comprehensiveness of provisions like these indicates the recent tendencies as to the functions of the juvenile court. Whether expressly provided or not, these provisions seem to include matters of adoption and guardianship of person, if jurisdiction over them is not given to other courts by the constitution. As a rule, the jurisdiction of the juvenile court does not extend to property rights or guardianship of estate.

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[1] *Supra*, p. 55.

[2] Katharine F. Lenroot and Emma O. Lundberg, "Juvenile Courts at Work," U. S. Children's Bureau, *Pub. 141*, pp. 216-218.

[3] United States Children's Bureau, *Report 1924*, p. 15.

[4] Juvenile Court of Cook County, *Report 1923*, p. 15.

Children who are physically defective, children who are held as material witnesses, and cases concerning the concealment of the birth of a child may be brought to the juvenile courts in certain parts of New York. In Ohio, the judge may give consent to the marriage of persons under legal age who are without parents or legal guardians. In a few states, such as Arizona, Missouri, and Washington, the juvenile court has jurisdiction over adoption cases. In Iowa, the consent of the juvenile court is required for adoption of children placed under its jurisdiction. In North Dakota, the court may give persons other than parents or guardian right to assent to adoption.

5. *LIMITATIONS ON JURISDICTION*

Broadly considered, the jurisdiction conferred upon juvenile courts is of two classes only—that exercised over minors and that over adults. To the first class belong cases of juvenile delinquency, dependency, neglect, and mental and physical defect. To the second class belong cases of contributing to juvenile delinquency or dependency, offenses against or involving children, and desertion and non-support. There are, however, cases which may involve either adults or minors or both. These are cases of truancy, adoptions, guardianship, illegitimacy, child-labor law violations, mothers' pensions, and all cases of transfer of custody of children.

Considering the judicial, together with the administrative, work of the juvenile court, in no other single tribunal, perhaps, has there been such a multiplicity of duties and powers. Nor has there been such a vagueness and indefiniteness in ~~the~~ the legal definitions of jurisdictions of other courts as in those of the juvenile court. If such phrases as "growing up in idleness or crime" or "whose conduct and environment seem to point to a criminal career" or "who so deports himself as wilfully to injure or endanger the morals or health of himself or others," which are often found in juvenile-court laws, are literally construed, the law may be made to include any child, however slight the cause may be, and any adult, who contributes to such delinquency, dependency, or neglect, however vague and remote the effect may be. Such cases are simply matters of tendencies, with which the common law does not concern itself. The juvenile-court law certainly does not intend to make the juvenile court an all-inclusive agency to control all aspects of a child's life, regardless of other circumstances. Obviously, if the juvenile court is a court at all, there must be some jurisdictional limitations upon its discretion both in law and in practice.

a. *Demarcation in Contributing Cases*

In general, adult cases are dealt with in juvenile courts only when they involve children. There are many kinds of adult cases, but most of them can be brought before juvenile courts under contributing to delinquency, dependency, or neglect clauses. As we have already observed, offenses against children are often treated as contributing cases. Thus, paternity cases may be dealt with as part of the proceedings in contributing to dependency cases. The jurisdiction of juvenile courts over adult cases is, in most of the states, not complete and exclusive. Some juvenile courts hold only preliminary hearings, while others have only concurrent jurisdiction with other courts. Nevertheless, the proportion of adult cases coming before juvenile courts indicates the significance of this jurisdiction. In the juvenile court of Denver about twenty-two per cent of the cases filed in 1922 were adult cases and the judge devoted about half of his time to these cases. [1]

The desirability of extending the jurisdiction of the juvenile court to adult cases is generally recognized, for it keeps the child out of the criminal court and metes out more flexibly punishment for adults. There is, however, a significant problem regarding the extention of jurisdiction over adults: Where should the line be drawn? If the control of all contributing factors is intended, it might include regulation of picture shows, newspapers, and places of work and of recreation. It might also include negative as well as positive offenses, such as the failure of some public agency or institution to do the things that would keep the child from delinquency. [2] Since the power exercised in such cases is but the police power of the state, it seems that its exercise must have substantial and reasonable relation to the object in view, and, as in cases of the police power, it must be for prevention and protection and not for positive promotion of the general welfare of the child who has not become a problem of the court.

b. *Challenge to Dependency Jurisdiction*

With regard to the jurisdiction of the juvenile court over children's cases, there is more difference of opinion than in the case of jurisdiction over adult cases. It has often been contended that this or that class of cases should not be included. Some aspects of this question are touched upon elsewhere. Here we are particularly interested in the so-called dependency jurisdiction of the juvenile court with its related problem of the administration of mothers' pensions.[1]

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[1] Lenroot and Lundberg, *op. cit.*, p. 223.

[2] *Cf.* Sutherland, *op. cit.*, p. 291.

While the jurisdiction of the juvenile court over dependent children who are also delinquent or neglected is not open to dispute, the wisdom of vesting so-called "pure dependency" cases in the juvenile court has often been challenged. It would seem strange that whereas the juvenile jurisdiction of the court of chancery was based mainly upon property rather than on morals, the juvenile court's work in this very field of material support, that is, the dependency jurisdiction with its related problem of the administration of mothers' pensions, is now being seriously questioned. It has been argued that when the case involves only immediate relief from poverty or misfortune, there is no question of disputed rights for a court to decide, and such cases can be far better dealt with by regular public or private relief agencies of the community.[2] Similarly, the mother's pension can be determined as readily by an administrative department of the government as by a court and with far greater efficiency and uniformity.[3]

On the other hand, the opponents of this idea contend that not all delinquency and neglect cases involve disputed rights; that the principle that problems of dependent children should be adjusted without court action whenever possible applies with equal force to these cases; that all dependent children, whose problems require court action, should pass through the juvenile court; that they are the wards of the state and the state must require that decision controlling their future be passed on by its constituted judicial authority for children; and that no child is to be put in an institution except by a decision of the juvenile court.[4] With regard to the use of some other agency to care for dependents, it may be said that whatever agency is established it should be judicial in its nature, and that the multiplication of such judicial agencies would make for inefficiency in all of them.

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[1] The juvenile courts in some states, such as New York, Massachusetts, Missouri, New Jersey, and Maryland, have no dependency jurisdiction that involves no question of neglect or delinquency.

[2] T. D. Eliot, *The Juvenile Court and the Community*, pp. 88-89.

[3] R. S. Barrow, "The Place of the Juvenile Court in the Care of Dependent Children from the Standpoint of a Probation Officer," *Proc. Natl. Conf. Social Work*, 1920, pp. 107-109.

[4] *Cf.* Lee Bidgood, "The Juvenile Court and the Dependent Child," *Proc. Natl. Conf. Social Work*, 1920, pp. 109-110.

The wisdom of vesting the juvenile court with "pure dependency" jurisdiction and the administration of the mothers' pension law depends largely upon local conditions. As a principle, students of the juvenile court generally agree that the court should not be burdened with this kind of specialized task whenever other agencies, public or private, are able to undertake their administration. The juvenile court should serve dependent children not by supporting them or finding them homes but by constituting itself the active agent of their guardianship and by determining their custody when that is in dispute. The time may eventually come when simple cases of dependency and mothers' pension will be handled without court action, but that cannot possibly be done until well-articulated state and county agencies for care of dependent children are established.

c. *Extent of Court's Discretion*

One often wonders at the broad jurisdiction and large discretionary powers entrusted to juvenile courts. The tendency is to include in their jurisdiction any child who may be in need of the guardianship of the state and any adult who offends against a child or who contributes to his delinquency, dependency, or neglect in one way or another. The "blanket" provisions of the statutes, if unwisely construed, would give to the juvenile courts so wide and such arbitrary powers that, compared to them, as Dean Pound has said, "the powers of the court of Star Chamber were a bagatelle." [1]

Juvenile-court judges have generally recognized that there must be definite limitations to this kind of power, which always involve dangerous possibilities. As the questions involved are largely questions of conduct, of the border line between law and morals, a field where law, from its very nature, is least efficacious, it is clear that jurisdiction given the courts must be broad, and a very considerable discretion is needed; but it is equally clear that this jurisdiction and discretion must have their limitations so as not to interfere with relations of family life unduly. It is true that most juvenile-court statutes have a clause requiring liberal construction of the law, but, clearly, jurisdiction cannot be enlarged by a statute requiring liberal construction. In the words of the Illinois court, "the juvenile-court law should be given a broad and liberal construction, but it should not be held to extend to cases where there is merely a difference of opinion as to the best course to pursue in rearing a child."[1] Nor, as was said by the California court, does the juvenile-court law contemplate the taking of children from their parents "merely because, in the estimation of probation officers and courts, the children can be better provided for and more wisely trained as wards of the state."[2] Some acts constituting delinquency and neglect as defined by law are so trivial in themselves that, as was said by the Utah court, "any thoughtless boy might commit them and thus be adjudged a delinquent, and by a careless judge be sent to the industrial school when the parent was not only willing, but most competent to have control of the child, and would offer it better surroundings and training than the state at its best could give or afford."[3]

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[1] Roscoe Pound, "The Administration of Justice in a Modern City," *Harvard Law Rev.*, 26:322, February, 1913.

The juvenile court in exercising its discretionary powers should not set up particular standards for the guidance of children or families in general. In this society there is such a diversity of opinions, standards, and codes religiously, socially, intellectually, and morally, that courts must exercise their great new power with much charity and forbearance for the opinions, standards, and codes of all different groups in society. A case should be made out which is sufficiently abnormal and wrong to meet the condemnation of all decent and law-abiding people without regard to religious belief or social standing before a parent should be deprived of the custody of a child.

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[1] Lindsay *v.* Lindsay, 257 Ill. 328 (1913).

[2] People *v.* Gutierrez, 190 Pac. 200 (Cal. App. 1920).

[3] Mill *v.* Brown, 31 Utah 473 (1907).

Chapter V

ORGANIZATION OF THE JUVENILE COURT

1. *THE JUDGE*

a. *Method of Selection*

The method of selection of juvenile-court judges depends upon whether the court is a separate court or a part of some other court system. The judges of the courts separately created by law are variously appointed by a juvenile-court commission, general assembly, governor, mayor or city council, or other governing body of city, or elected by popular vote. The appointment by the governor, as in Boston, Wilmington, Montgomery, Birmingham, Jersey City, Newark, and four counties in Florida, is believed to be an ideal method. When the juvenile court is a part of some other court system and the separation from the other is less complete, as in most rural counties, the judge of the county, circuit, district, or any other court, of which the juvenile court is a part, generally acts as the juvenile judge as a result of his election or appointment to that office. In certain of the states, where the juvenile court is more completely separated from the court of which it is a branch, and one or more judges give more or less full time to juvenile work, as in most large cities, the judge of the juvenile court is assigned to that work by his associate judges; in other states, the judge is elected by vote of all the judges of all the courts of record in the locality. In some places the juvenile judge is designated or appointed by another judge, usually of the superior court, who has been given power to make the selection. In North Carolina, the clerk of the superior court is the judge of the county juvenile court except in cities with a population of 10,000 or more, which maintain separate juvenile courts or, by special arrangement, joint city and county courts with the judge of the county court presiding.

In discussing the methods of selecting juvenile judges, two considerations naturally enter. Which method is likely to secure the best qualified men? Which method is more likely to banish politics from juvenile courts? Popular election does not seem to be a satisfactory method of selection if expert knowledge and special qualifications are required of the judges. The method of assignment is more or less subject to the danger of a rotation system being established, but it involves least danger of political influence. The danger of selecting judges as a reward for political services is most likely to be involved in an election system. After all, these questions cannot be profitably answered unless we take local conditions and legal traditions of the different states into consideration.

b. *Tenure of Office*

The tenure of office of the juvenile judges varies according to the methods of selection and to the court system to which the juvenile court belongs. It is usually short—one or two years—when the juvenile court is a part of some other court system and the method of assignment is used. It is generally longer when the method of appointment or popular election is used, especially when the juvenile court is a separate court; the average term ranges from four to six years. The judge in Boston is appointed by the governor for life.

One of the defects of the juvenile court organization is the system of rotation of judges, whereby each one takes a few months or, at most, one year to hear children's cases. This method of rotation, now less common than formerly, is undesirable, especially when the terms are too short, for it lessens the interest of the judge in his work by reason of a constant change of authority, and makes sufficient specialization and an intensive study of a court's methods and needs impossible. Short-term assignments and short-term appointments have practically the same bad effects as the system of rotation. Fortunately, the designation of judges for short terms does not appear generally to have resulted in the frequent rotation of judges. The tendency in most courts is to select the same person as judge of the juvenile court for a considerable length of time, or as long as he remains in office, or as long as he can be persuaded to serve. During the twenty-eight years of the existence of the Chicago juvenile court only four judges have presided regularly over that court, although Chicago selects one of its circuit judges as a juvenile judge for a term of one year.

The tenure of office of the juvenile judges should be sufficiently long to warrant special preparatory studies and the development of special interest in juvenile work, preferably not less than six years, as has been recommended by the Committee on Juvenile-Court Standards.[1]

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[1] Appendix I, p. 222.

c. *Amount of Time Devoted to Juvenile Work*

Separate courts are usually served by judges devoting full time to their work. Some courts, although branches of other courts, as those in Chicago and Detroit, also have full-time judges. When the judge is assigned from some other court and has other duties to perform, it is important that he be allowed to devote sufficient time at frequent intervals to juvenile work, as is necessary to keep detention at a minimum, to hear each case carefully and thoroughly, and to give general direction to the work of the court. Unless the statute provides that the judge is to hear children's cases only, how much time the designated judge is to give to such cases is a matter for the court's own decision.

d. *Salary*

The yearly salaries of the juvenile judges vary according to the character of the community and do not differ greatly from those received by judges on similar benches. In New York City, the juvenile judge receives $12,000, perhaps the highest amount in this country; in Indianapolis, $7,000; in the District of Columbia, $5,400; in Boston, $5,000; in Birmingham, $4,800; in Denver, $4,000; in Baltimore and Memphis, $3,000; in Morgantown, $1,800; and in Wilmington, $720. In places where the juvenile court is a part of some other court, the judge receives his salary as a regular judge of another court, but in a few places he receives a small sum in addition. Except in Utah, where the juvenile judges are paid by the state, they are generally paid by the localities in which they have jurisdiction. Except in some parts of Alabama, the fee system of paying judges is not used in order to avoid certain well-known abuses.

e. *Qualifications*

The qualifications of juvenile-court judges have more to do with the success or failure of the work of the court than any other single element. Upon the judge rests the duty of prescribing the conditions under which the child shall live, and the immediate treatment to be accorded to him. The manner of his disposition of cases reflects his qualities, which, in many respects, may not be possessed by judges on other benches. He should be chosen because of his special qualifications for the work with children.

The qualifications of the judge as stated in statutes, relating to residence, age, legal training, and experience, vary from state to state. In many of the statutes no qualifications are specified. So far as the human side is concerned, the law in some states provides that he must be a "parent," or he must have "an interest in children," or "a knowledge of the problems of social service, of philanthropy, and of child life" or he must be of "high moral character and clean life, selected for his special fitness, by training, education, and experience, to deal with delinquent and neglected children."

Much can be said in favor of the opinion of some students that judges of the juvenile court should not be limited to members of the legal profession. In about fifteen states the law requires legal training as a necessary qualification for juvenile judges. The opinion of authorities seems to agree, however, that, because of the extent and the nature of his jurisdiction, and the tremendous responsibility that it entails, he must be a trained lawyer with a clear conception of the rights of the individual and of society, and with a thorough understanding of the maxim that it is "a government of law, not of men." "The more the juvenile court departs from the penal methods," as Miss Lathrop says, "the more its bench needs legal ability of a high order, with a clear sense of law as an instrument for perfecting social justice."[1]

In emphasizing the legal training of the judge, we by no means minimize the importance of the social aspect of his qualifications. Besides being reasonably versed in the law, the judge should have adequate scientific attainments and knowledge of social work and social problems, especially the problems of practical sociology. The problem of juvenile delinquency, in its last analysis, is largely a social question, and its legal phases are no more than the vehicles utilized to transport the child to the right destination. The purpose of the work and the causes of delinquency must be clearly understood in the disposition of cases. The judge must be an expert in the sciences of human behavior and in the art of adjusting human relations.

The judge of the juvenile court should have an adequate understanding of child psychology and the general ability to deal with children successfully. It is his duty to know and interpret the child, to see the limitations of his horizon, and to understand the natural subjective effects of external influences. To know the mind of the child in order to understand his point of view is the first step toward the individualization of treatment. It is with the offending child and not the offense that the judge has to deal.

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[1] U. S. Children's Bureau, "Proceedings of the Conference on Juvenile-Court Standards," *Pub. 97*, p. 8.

Most important of all, the commanding personality, the blameless character, and the sympathetic temperament of the judge should be such as to win the confidence of the child and the community. The judicial temperament, unless duly tempered with a measure of prudence and human sympathy, is out of place in the juvenile court, and, if introduced, will only nullify the original purpose of the juvenile court. The delicate task takes study, thought, patience, experience, capacity for inspiring confidence, and, above all, great faith in humanity.

2. *REFEREES*

In about ten states or some parts of them the juvenile-court judge is authorized by law to appoint from outsiders or from among probation officers referees, or masters of discipline, or juvenile commissioners, as they are variously styled, who may make tentative disposals of cases. In some other states in which the juvenile court has chancery jurisdiction, the judge often appoints referees for the same purpose without specific legislative enactment.

The juvenile referees have the usual power and duty of referees in chancery cases. They receive petitions, hear the testimony of witnesses, and certify to the judge findings upon the case, together with the recommendation as to the judgment or order to be made. Cases may be assigned to them either by special order or by general order of the court. They have no power to render a final decision, but their recommendations are rarely reversed. Some laws provide that their judgment stands as that of the court unless modified or set aside by the judge, or unless appeal is taken to the judge within a definite period of time. This delegation by the court of some part of its judicial authority seems never to have been questioned on constitutional grounds.

Referees are useful in many respects. In some places they are utilized by the court, especially in rural communities, where the area of jurisdiction is so large that the judge cannot attend promptly to cases in all sections; in other places they are appointed to act as assistants to judges to hear cases in the first instance and to facilitate the unofficial handling of cases. It is generally agreed, however, that referees, if women are appointed, are particularly useful in the court's work with girls and, perhaps, with young boys. Most girls come to the court for sex delinquency. A woman referee in cases like these relieves the judge of embarrassing investigation and virtually determines the appropriate action. The appointment of women referees has been highly commended by Mary E. McChristie, Referee of the Cincinnati Domestic Relations Court, in the following words:

> Many farsighted juvenile-court judges appoint women referees to hear all delinquent girls' cases. This is a great advance from the time when girls' cases were assigned indiscriminately to either men or women officers; when the girl delinquents were compelled to confess to immorality before a careless mixed crowd where they were as conspicuous as Hester wearing a scarlet letter. No matter how detached and professional a man judge may be in his contacts, this girl sex delinquent is keenly conscious of his masculinity and the intimate nature of the questions he is forced to ask. The natural confidence inspired by a woman judge talking to one of her own sex, the intimate understanding one woman has of another's temptations and weaknesses, the chance to give the girl her first clean lesson in sex education—all these, and many other unexpressed reasons, make this hearing more informative and humane. Essentially and distinctly this is a woman's work.[1]

A woman referee was appointed in Denver by the judge in his capacity of chancellor as early as 1903. The law of 1909,[2] state-wide in operation, providing for "masters of discipline," merely confirmed this practice in a detailed and definite form. In North Dakota, a law of 1915,[3] as amended in 1921,[4] authorized the appointment of two juvenile commissioners, one of each sex, for each district. The man commissioner has exclusive jurisdiction over boys over ten years of age; the woman commissioner, over girls over ten years of age; both have concurrent jurisdiction over children ten years of age or under. They have the combined duties and powers of probation officers and referees. They have authority to take care of all work preliminary to final disposition of juvenile cases. They investigate cases, adjust them informally, refer them to other agencies, and hold hearings in any part of their districts. This system makes the juvenile court accessible to the rural parts of the district as well as to the county seat.[5] In Missouri, where the circuit system prevails, the circuit judge who hears children's cases was authorized by a law in 1917 to appoint referees, but in 1923 this provision for counties of less than 50,000 population was eliminated.[1] In New York State, a beginning in this direction was made in 1918 in one county—Chautauqua—through a law authorizing the appointment of "a lawyer or other suitable person" to act as referee.[2] In the New York county children's court law of 1922, a provision has been made for the appointment of referees, called by the name "commissions," but, in general, the judges of the county children's courts are not inclined to exercise their power of appointment. The law in Georgia[3] provides that one or more probation officers may be appointed as referees on the first instance and in Mississippi[4] and Alabama (for Jefferson County only)[5] probation officers or any other person may be appointed as such. An Indiana law of 1921[6] provides that the judge of the juvenile court in counties having a population of 100,000 or more may appoint any practising attorney of such county to act as juvenile referee.[7] California, in the counties of the first class, that is to say, Los Angeles,[8] Michigan,[9] and New Mexico[10] are the only states that specifically provide by law for the appointment of women referees to hear girls' cases.

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[1] Mary E. McChristie, "Why They Tell," *Survey*, 50:446-448, July 15, 1923.

[2] Laws of Colorado, 1909, ch. 158.

[3] Laws of North Dakota, 1915, No. 179.

[4] *Ibid.*, 1921, ch. 83.

[5] In four of the six judicial districts of the state, juvenile commissioners are known to have been appointed. In three of these four districts a woman commissioner has been appointed. See U. S. Children's Bureau, "Dependent and Delinquent Children in North Dakota and South Dakota," *Pub. 160*, pp. 18-19.

Though not authorized by law, some judges, by virtue of their chancery jurisdiction or by some local arrangement, appoint referees to handle children's cases, especially girls' cases. These referees are, in most cases, appointed from among probation officers but occasionally from outsiders or members of private societies. Although the Illinois juvenile-court law makes no provision for the appointment of a woman to hear cases of delinquent girls, the judge of the Chicago juvenile court was given power by the county board in 1913 to appoint a woman, who was known as assistant to the judge but who had the legal status of a probation officer, to serve such a need. Judge Mary M. Bartelme, who had long been assistant to the judge, was elected a circuit judge in 1923. On her election the Circuit Court judges assigned her to sit as an associate of the judge of the juvenile court. She continues to hear delinquent girls' cases and, in addition, truant cases and the cases of feeble-minded children, but orders are now entered in her own name. In Cincinnati a woman, the assistant probation officer, acts as referee in girls' cases. The joint juvenile court of Buncombe County and the city of Asheville, North Carolina, has a woman referee for girls' cases, though no authority for her appointment can be found in the juvenile court law of that state. In San Francisco a member of the probation committee—an unpaid board of citizens—serves in all girls' cases as referee. In some other courts the probation officer gives the judge special assistance in hearing cases, especially girls' cases, if she is a woman probation officer, without bearing any official title as referee. This has been done in a number of communities without new legislation.

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[1] Laws of Missouri, 1923, p. 131.

[2] Laws of New York, 1918, ch. 464, sec. 15. According to this law two referees have been appointed in this county; these have been in the cities of Dunkirk and Jamestown.

[3] Laws of Georgia, 1915, No. 210, sec. 29; amended 1916, No. 575.

[4] Laws of Mississippi, 1916, ch. 111, sec. 23.

[5] Laws of Alabama, 1919, No. 146, sec. 19.

[6] Acts of Indiana, 1921, ch. 35; amended 1925, ch. 205.

[7] Although five counties are eligible to have referees, only four of them have made such appointments, namely, Lake, St. Joseph, Vigo, and Marion. In Marion County the referee is a woman.

[8] Laws of California, 1915, p. 1225.

[9] Laws of Michigan, 1923, ch. 105. The provision for the appointment of woman probation officer as referee for girls' cases has not been taken advantage of, as far as it is known.

[10] Laws of New Mexico, 1917, ch. 4, sec. 6.

3. *WOMEN IN JUVENILE COURTS*

There are three capacities in which a woman may serve in the juvenile court: woman judge, woman probation officer, and woman referee. The employment of women officers in the juvenile court is a distinct development in the juvenile-court movement and a distinct sign of further socialization of the court.

Because of the very nature of the juvenile-court work, women officers are especially fitted for some phases of the work. A woman probation officer is especially qualified to look after girls, to supervise neglected children, and to hear the reports of pre-adolescent delinquent boys and to make visits to their homes. It is believed that it is unwholesome for a girl to be placed under the care of a man owing to some psychological reasons, though pre-adolescent children can frequently be successfully handled by probation officers of either sex. On the other hand, women are not generally qualified to deal with adolescent boys, especially delinquent boys. Boys over fourteen are usually better handled by men.

Although the right of women to be judicial officers and assistants to courts has been generally recognized, and the practice of appointing women probation officers is very widespread, the appointment of women referees and women judges is still limited to a few places. The appointment of women referees to hear girls' cases and cases of young boys, as we have noted before, is not very common; the plan should be extended to every community, whenever possible. Although much can be said in favor of the use of women not only as referees and probation officers but as judges as well, the number of women judges in the juvenile court is still more limited.[1] Women judges are particularly fitted to handle a certain type of case and their appearance makes the use of women referees in girls' cases unnecessary.

4. *PROBATION OFFICERS*

a. *Types of Probation Officers*

Probation officers may be roughly classified as regular, irregular, and volunteer. Regular officers are those who are definitely attached to and paid through the court, giving either their full time to their work or, at least, a major part of it in connection with other social work requiring somewhat similar qualifications and approach. Irregular officers include police probation officers, persons authorized by the court, or officially recognized agents of public or private organizations, who are not definitely attached to the court and who give only part-time service and who may or may not be paid from public sources. Volunteer probation officers are individuals or agents of organizations who serve without compensation or who are paid from private subscriptions. The distinction is not always clear, for sometimes one officer may be classified one way or another. His relation to other work, the amount of time he gives, and the source of payment suggest only in a general way to which class he belongs.

It is generally agreed that effective probation service means regular paid service. The importance and the public character of probation officers is being recognized gradually and they are now, with few exceptions, publicly employed and paid. Only in this way can these workers be made fully accountable to the court and uniform standards of work under qualified trained workers be established. Other types of service are effective only when supplemental to paid service and limited to some particular phase of probation work. Full-time service is possible only in cities and large counties. In a majority of courts in small rural communities the probation work is done by persons who combine it with the duties of other social work of the community, such as those of county relief agent, school-attendance officer, secretary of a welfare association, superintendent of schools, and the like. In some states this combination is authorized by law and the officers, definitely attached to the court, have a legal status.

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[1] It is known that there are women judges in Chicago, Ill.; Memphis, Johnson City, Tenn.; Plattsburg, N. Y.; Danville, Boyce, Va.; Miami, Fla.; and the District of Columbia. In the Domestic Relations Court of Birmingham, Ala., a woman judge tries adult cases. Women judges sit in a few other courts which also hear children's cases.

Some courts utilize to a considerable extent in probation work the services of agents of other public departments or of private societies, such as boards of children's guardians, school-attendance officers, the Big Brother or Big Sister groups, the Society for the Prevention of Cruelty to Children, and various other charitable or religious organizations. These organizations often include as part of their regular activities the investigation of juvenile cases and such supervision as the judge may desire. Their services are especially useful in difficult cases or in such tasks as making supplementary home visits or special investigations. They are not volunteers if they are paid in part or are subsidized from public funds for their service rendered. They are not regular officers because they have no definite legal status as such. They merely cooperate with the court and do some phase of probation work.

One important type of irregular probation officer that demands our special mention is the police probation officer. He may give full-time service and may be paid wholly through the court, but because of the character of his work, he is classified as an irregular probation officer. He is usually detailed from the police force and is generally used for preliminary work in adult cases and for supervising adults on probation. His duties in juvenile cases are generally limited to conveying a child to an institution or jail, apprehending the offender, swearing out a petition against him, and presenting evidence in court. He serves as a liaison officer between the police and the court. As a rule, he does not undertake the constructive side of case work with children under his supervision. The principal importance of his work lies in the more intelligent handling of juvenile cases in the police stations or in the elimination of the uninformed police officer from the juvenile-court room. Specially trained policewomen are particularly useful in handling all cases of delinquent girls. California and some other states have laws specifically providing against transportation of girls by officers other than women.

Volunteer probation officers are utilized by most successful juvenile courts as a matter of necessity. The enthusiasm and leisure of volunteers can be used constructively for the benefit of probationers. It is generally agreed, however, that their service is rarely efficient unless it is organized and supervised by responsible and trained officers and limited only to those tasks which these volunteers are willing and competent to undertake. Like most volunteer work, it is difficult to standardize and to supervise effectively.

The volunteer probation system was generally considered a failure and fell into discredit after its use in the first period of the juvenile-court movement. Recently, however, with the increase in the number of juvenile courts being established throughout the country, the gradual refinement in technique of probation, and the widening of jurisdiction and functions of juvenile courts, the use of volunteer assistance in its legitimate place has become increasingly important, especially in rural communities where adequate paid service is difficult to establish. The tendency is more and more not to designate such volunteers as probation officers, but to utilize their services for special aspects of probationary treatment. In any event, their work should be supplementary only, and should be closely controlled, coördinated, and supervised by the court probation staff so as to promote efficiency, responsibility, and uniformity of standards.

b. *Number of Probation Officers*

The number of paid probation officers usually varies according to the population of the community over which the juvenile court has jurisdiction. The appointment is often optional with the appointing authority, but the tendency is to make it mandatory, at least as far as one probation officer is concerned. The number does not always correspond to variations in the volume of work, for in some courts much of the work in certain particular phases is done by private social agencies or by irregular or volunteer probation officers. This explains the fact that in Boston there are only four probation officers, while in Chicago there are more than one hundred workers with several specialized departments under the charge of supervisors, although both are large cities and both have highly organized juvenile courts. In rural communities, on the other hand, a county or a district of several counties often has only one probation officer. In order that effective work may be done, a sufficient number of probation officers must be appointed for every section of the country.

c. *Method of Selection*

Probation officers are variously appointed by the governor, supreme court, city government, juvenile-court commission, some other state board or officer, and the juvenile court itself. In the majority of jurisdictions, all or most of the appointments are made by the juvenile court. In some states, especially where the judge is elective, the appointment must be recommended or approved by some other local or state authority.

The unrestricted power of appointment by the judge, though generally used, presents many difficulties, especially if his office is elective. In order to take the appointment out of local political interference and to secure high-class men and women, two methods seem most likely to work satisfactorily: first, the placing of probation officers under competitive civil service, and, second, the more or less complete control of appointments by a state supervisory agency.

Civil service as a method of selecting probation officers is used generally throughout the states of New Jersey, New York, Ohio, and California, and in the city of Milwaukee. In each county of New Jersey there is a general probation office, to which successful candidates are assigned and from which probation officers are designated to the different courts in the county. New York has a very successful civil-service system conducted by the New York State Probation Commission in coöperation with the civil-service commissions in various localities. In Milwaukee the examination is conducted by a local civil-service commission consisting of the judge of the juvenile court, the chief probation officer, and one or two other citizens who are interested in juvenile work.

In some places, such as Montana and Georgia, St. Louis and Chicago, the examinations of probation officers are held either through special legislative authorization or through local arrangements. They are not under civil-service rule, though, in effect, they are comparable to it. In Montana probation officers are appointed through "public competitive examinations." In Georgia, in counties of 60,000, the examination is conducted by three examiners appointed by the court, who certify the three highest candidates. In St. Louis it is conducted by a special board appointed by the circuit judges. In Chicago since the case of *Witter* v. *Cook County*

Commissioners,[1] the judge, without legislative authorization, has established a competitive examination run by the court itself. He has delegated his power to a citizens' committee of five persons appointed by him to conduct examinations for probation officers and appointments are always made from the resultant eligible list. The device has worked admirably and is still in force.

In considering qualifications of candidates, weight is usually given to education, personality, experience, and training, verified by a written examination, a personal interview, and sometimes a mental test. As a rule, the law does not specify required qualifications for probation officers except that he must be "of reputable character" or a "discreet person of good character."

The other method of selection of probation officers is also in operation in a number of states. In Vermont, Rhode Island, and Utah, the state has complete control, through a state agency, of the appointment of probation officers. A state probation officer, who serves under a state board of charities in Vermont and Rhode Island, and under a state juvenile-court commission in Utah, appoints all probation officers. In North Carolina, the act of 1919 makes the county superintendent of public welfare, who is elected by the county board of education and board of county commissioners in joint session, with the approval of the state board of charities and public welfare, the chief probation officer of the county juvenile court and requires the state board of charities and public welfare to approve all appointments and removals of assistant probation officers. Oregon has a state child welfare commission, one of the duties of which is to approve all appointments of probation officers in the Portland court of domestic relations which has exclusive jurisdiction of juvenile cases. Their appointments are subject to confirmation by the State Probation Officer in Indiana, and by the state board of public welfare in Virginia. In Texas the judge appoints probation officers from a list of three candidates furnished by a nominating committee consisting of the county superintendent of public instruction and the two school principals of the district. In Massachusetts, the state commission on probation has conducted unofficial examinations for probation officers for a number of years. Lists of eligibles resulting therefrom are submitted to the judges who request them, with information and suggestions concerning the candidates.

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[1] *Supra*, p. 28.

These two methods of selection of probation officers are attempts to standardize appointments, to avoid local political interference, and to assist the judges in finding the best qualified persons. To be sure, no method is infallible. Much depends upon the way in which and the conditions under which the law is administered. Although great uniformity and high standards may be secured, it does not seeem desirable that appointments should be entirely controlled by a state authority. A merit system throughout the state may best be secured either through the appointment by the judge from the eligible list secured through competitive examinations under civil-service rule or otherwise, or through the approval of the appointments by some state supervising body.

d. *Tenure of Office*

Frequently the term of office of probation officers is indefinite. When it is fixed by statutes, it ranges usually from two to four years. In most cases no provision has been made for facilitating the discharge of officers who eventually prove to be unfit for service. As a matter of fact, the appointing power usually has the power of removal at his pleasure, if the term is indefinite. He usually has the power of removal for cause, if the term is fixed by law or the appointment is made on the basis of civil-service examinations.

e. *Salary*

Great variation in salaries of probation officers is found in different states. Many states fix them by law, varying according to the population of the community. This provision results in a lack of elasticity. In other states a maximum or minimum payment, or both, is prescribed, while the actual amount is fixed by a state board, the court, or, as is usually the case, the city or county authority having control of public appropriations. Except in a few of the smaller states, probation officers are generally paid by the localities which they serve. The wisdom of vesting the power to appoint probation officers, to determine their number, and to fix the amount of their salary in the hands of different authorities is questionable, because it often produces friction and makes the establishment of a competent and sufficient force of probation officers difficult. The judge of the juvenile court should have sufficient latitude as to the selection, the number, and compensation of probation officers to exercise real responsibility for the success of the court.

Probation officers are now generally paid workers, but their salaries are generally inadequate. When we consider the demands made upon a probation officer and the responsibility which rests upon him, it is clear that a salary of $2,000 or $2,500 for a chief probation officer and $1,200 or $1,500 for a deputy probation officer—which seems to be the sum in average communities—is very inadequate. In some small communities their salaries are still lower. The salaries should be large enough to obtain qualified persons who can devote their entire time to the service, and also to hold them after they have secured experience. A yearly increase should be allowed for efficient service. At any rate, the salaries should be comparable with those paid to a first-class high school teacher in the community or workers in other fields of social service.

f. *Qualifications and Training*

The inadequacy of salaries paid and the absence of defined requirements for entrance into the probation service naturally result in probation staffs whose members have little preparation for their work. Successful constructive or reconstructive work demands of probation officers not only certain indispensable personal qualities such as good personality and blameless character, but also knowledge, tact, judgment, memory, spirit of service, sympathetic temperament, faith in humanity, and, above all, common sense. Most of these qualities can come only through education, training, and experience. The recommendation of the Committee on Juvenile-Court Standards requires a college education or its equivalent, and at least one year of supervised case work as the minimum requisite training for probation service.[1]

The professional character of probation is being gradually established with regard to tests of performance, standards of training, and qualifications for the individual members of the profession. Here the principles of social case work must be applied, for the probation officer is the social case worker of the court as far as the forming of the diagnosis, the planning of treatment, and the carrying out of the plan are concerned. Therefore, the required training must be at least equal to that demanded for case work with families or other specialized work in social service fields. From the very nature of his task, he should possess at least an elementary knowledge of modern psychology and psychiatry.

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[1] Appendix I, p. 228.

Probation officers are usually recruits from among teachers, clergymen, lawyers, and social workers. The lower salaried officers in smaller communities are often ex-clerks, small business men, or petty office-holders, who have had little training and preparation for their work and who may be too old to be useful for any other job.

Little organized effort has as yet been made to train probation officers adequately. The training facilities may include preliminary training courses in schools, court training on the job, and special training courses in probation institutes or elesewhere. Preliminary training courses for social workers are given in some universities and training schools, which are beginning to see the need for encouraging and training men and women of the highest type to enter all forms of public social service work. Court training of probation officers on the job or after their entrance on duty is well under way in some of the most progressive juvenile courts. Staff meetings, group discussions, library facilities, attendance of conferences of probation officers, and reading assignments on such subjects as criminology, mental hygiene, social case work, and psychology have also great educational value in broadening their viewpoint, in arousing their enthusiasm, and in bringing their work to high standards.

5. *ORGANIZATION OF THE PROBATION STAFF*

The success of the juvenile court depends mainly upon a well organized probation staff, for, in a larger sense, most of the work of the court is probation work. Here the principles of competency, efficiency, even division of work, and business management must be applied as sole tests of organization.

There are no two probation staffs which are organized exactly alike. The organization may be based upon functions performed, types of cases handled, or some extraneous considerations. The functions of the probation staff include general administrative work, reception of complaints, investigation of cases, presenting cases to the court, supervision of children on probation, clerical service, maintenance of relations with outside organizations, and many other miscellaneous functions. The classification of its organization may be based not only upon functions but also upon types of cases handled, such as delinquency cases, neglect cases, mothers' pension cases, and cases involving family relations.

Whether the organization is based upon functions or upon types of cases, it may be differentiated further according to such extraneous considerations as sex, district, age, color, language, or religion. The degree of specialization depends primarily upon the volume of business and the size of the staff. Though specialization is often desirable, opinions differ with regard to the extent to which it should be carried.[1]

a. *Simple or Departmental Plan*

If we consider only juvenile cases as included in the jurisdiction of juvenile courts, the general forms of organization of a probation staff may be simple or departmental according to the degree to which the work is specialized. In some juvenile courts there may be departments dealing with adults, such as a department of domestic relations and a department of criminal cases against adults.

Under a simple plan of organization the work of the probation staff is specialized only to a lesser degree, such as to sex, district, and the lodging of the general administrative duties in a chief probation officer. Under this plan differentiation may sometimes be made between delinquency cases and dependency and neglect cases, but the work is usually not further specialized. The probation staffs in the juvenile courts of Buffalo, New Orleans, Boston, and Minneapolis are typical of this form of organization.[2]

On the other hand, under the more specialized departmental plan definite authority and responsibility are lodged in department supervisors, working under the general direction of the chief probation officer. The chief feature of this plan is the division of the work into distinct branches or divisions, permitting considerable specialization within the staff. This plan is highly developed in Chicago, San Francisco, and, in a modified form, in Denver and Los Angeles. For instance, in the juvenile court of Chicago the probation staff numbers more than one hundred persons and the work is divided among several special divisions for receiving and investigating complaints, for supervising delinquent boys, for supervising dependent children and delinquent girls placed on probation in their own homes, for placing dependent children and delinquent girls in family homes, and for investigating and supervising all mothers' pension cases. Then there is a separate police probation officers' division consisting of thirty regular police officers assigned to the juvenile court—one from each police district—by the chief of police and paid by the city. They work under the immediate direction of one of their number and the supervision of the chief probation officer. Their duties are restricted to receiving complaints filed at police stations, investigating the cases involved, filing petitions, and appearing in court with the children to present the case. Each case is usually reinvestigated by a regular probation officer before the court takes any action. The organization of probation staffs in San Francisco, Los Angeles, and Denver is much less elaborate than in Chicago.[1]

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[1] Katharine F. Lenroot and Emma O. Lundberg, "Juvenile Courts at Work," U. S. Children's Bureau, *Pub. 141*, p. 161.

[2] *Ibid.*, pp. 162-163.

The actual adoption of either of these forms of organization in any particular community must depend largely upon the extent of the jurisdiction of the court, the availability of other social agencies, and many other local factors.

b. *Separation of Investigation and Supervision*

One important form of the functional organization of probation work is the separation of investigation and supervision. In most courts a probation officer shifts from investigation to supervision, following his case from the time when the complaint is made, remaining in close association with the case until its disposition, and taking charge of the child on probation if that is ordered. On the other hand, in some courts certain officers are employed to devote their time entirely to investigation with a special staff of supervising probation officers for after-care work. The courts in St. Louis and the District of Columbia belong to this latter type. The Los Angeles court adopted this plan under a departmental form of organization.[2]

Opinions as to the advisability of this plan differ. The arguments usually advanced in favor of the plan are that this separation permits more specialization of service in investigation and supervision; that the two involve a different emphasis and system of work; that the qualities required of an investigator are different in certain respects from those of a supervising officer; that it insures more prompt and concentrated attention to their special cases; that the neglect of either branch of the work may be avoided more successfully in this way; that some economy of time may be effected by providing for two different staffs; and, finally, that the cooperation of the family can more easily be enlisted by having two sets of officers—one to make searching inquiries and the other to undertake constructive work. On the other hand, the arguments in favor of the principle of one worker carrying the case from the first investigation to final discharge or commitment are that the child and the family are thus saved from the necessity of making two adjustments to two different officers, and that the probation officer making the investigation is familar with all the circumstances and needs and has already formulated at least the general outlines of a plan, and upon the order of the court can proceed immediately with the treatment indicated.[1]

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[1] *Ibid.*, pp. 165-168.

[2] *Ibid.*, pp. 163-165.

Which is the better plan is hard to determine. Either plan may work well. While there is a certain advantage in having the preliminary investigation made by the officer who subsequently supervises the probationer, in large cities a division of the probation staff into a corps of investigators and supervisors is often desirable and practicable.[2] When it is impossible to secure a sufficiently large staff, when the officers must carry more cases than they can handle satisfactorily, this division of labor seems to promise a more even and efficient distribution of effort.

c. *District System of Assignment*

The assignment of probation officers for probation work may be based upon functions performed or upon types of cases handled but it may also be based upon the district system, by which the community is divided into geographical districts, to each of which is assigned one officer and all probation work in that district is assigned to that officer. This device of distributing the jurisdictional areas for probation purposes is used in most courts in large counties or cities. Under this system the officer in his district receives complaints, makes investigations, appears in court, and, if the child is put on probation, receives him for supervision.

The advantages claimed for the district plan for supervising probationers are that it is an economical method of assignment, for it avoids unnecessary travel, duplication of effort, and overlapping territory, and that it increases efficiency since each officer becomes familiar with his district, learns the coöperating agencies, and becomes acquainted with its special problems. Its chief disadvantage, of course, is that where there is only one officer to a district, as is often the case, the result is inevitably to disregard the necessary considerations to be given to sex, race, religion, and types of problems. The district plan is practical but not logical and can work satisfactorily only when it is supplemented by other devices.

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[1] *Cf. Ibid.*, pp. 168-169, and C. L. Chute, "Probation in Children's Courts," U. S. Children's Bureau, *Pub. 80*, pp. 13-14.

[2] E. J. Cooley, *Standards of Probation*, p. 13.

d. *Assignment by Sex, Race, or Religion*

Although in most courts the work is organized, in the main, along territorial lines, the system is not uniformly followed. It is quite certain that men probation officers can have little success in handling most girls, especially those who are sex delinquents. Therefore, in well-organized courts where the district system is adopted and where there is only one officer to each district, girls' cases are usually handled by women officers, regardless of geographical location. Where a modified district system, with a man and a woman officer in each district, is adopted, which is especially advisable for large cities, the difficulties can be met by assigning all girls' cases to that woman officer.

The same difficulty often arises when the probationer and the officer are of different races or religions. For this reason, in assigning probation cases due consideration should be given as far as possible to language, racial psychology, and religion of the probationer. Under the district plan a foreign-speaking officer is usually assigned to a district in which his language is prevalent.

There is undoubtedly some advantage in having probation officers of the same race or nationality and also of the same religion as the child, but in most cases it is not a feasible arrangement. Certainly it is unwise to sacrifice for one of these bases of assignment certain more fundamental distinctions in assignment on a basis of sex and type of case.

e. *Assignment by Types of Cases*

Where the district system of assignment is not used, the practice is to make individual assignments according to personal qualifications of each probation officer to handle certain types of cases or problems, either by special or by general order of the court. This system is of advantage and practical in communities in which the distances to be traveled permit an officer to get around to different parts of the city or county without a great loss of time. It is not practical if the area is too extensive. In large cities the district system of assignment is a necessity. This system of assignment, therefore, has not been developed very far.

In the assignment of cases by district or by some other plan, it is usually wise to keep the scheme flexible so that assignments in special cases may be made on the basis of the skill of certain officers in particular types of work. The best plan would seem to be the district system supplemented by special individual assignment according to types of cases. This is the practice in most of the courts that have adopted the district plan. In Chicago, although within the divisions the work is assigned, in the main, in accordance with the district plan, with each officer responsible for the cases in a given district, the system is not fixed hard and fast. For instance, cases in which delicate moral situations are involved, follow-up work with the families of children committed to manual-training industrial schools, and farm placements are assigned to particular officers who have special skill and training in handling these types of cases.[1]

f. *Chief Probation Officer*

In organizing a probation staff, the position of the chief probation officer demands our special attention. When more than one probation officer is appointed, there is usually a chief probation officer, aided in some instances by a deputy chief probation officer, to have charge of general administrative duties and general oversight over the probation work. He is the chief executive officer of the juvenile court.

His duties and powers vary greatly in different courts according to the size of the court, the type of organization of the probation staff, and the relation of the judge to the probation work. In general, they are of three kinds: to assist the judge in disposing of cases, to direct the probation force, and to maintain relationships with outside agencies. In his first capacity, which is quasi-judicial, he passes upon all complaints and petitions, sifts out cases for the court, presents cases at the court's hearings, advises the judge as to their disposition, hears and adjusts cases in the first instance as a referee, and executes the court's order. In his second capacity he organizes and supervises the probation staff, divides the work among the assistant probation officers, assigns cases to them for supervision, supervises cases on probation, passes upon all cases of violating probation and discharging from probation, trains probation officers and volunteers, presides over staff conferences, and is responsible for the entire administrative work of the court. In his third capacity he maintains coöperative or supervisory relationships with outside public or private agencies or institutions. He often exercises general supervision over the detention home and the clinic, if they are attached to the court. He often has the additional work of keeping in touch, by visiting or by some other means, with the institutions to which children are sent, who are still wards of the court. He has to maintain a close relation with all social agencies to acquaint himself with available resources of the community. From this multiplicity of duties and powers no one can fail to see the importance of the office of the chief probation officer.

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[1] See Jeter, *op. cit.*, p. 31.

The duties and powers of the chief probation officer naturally vary greatly in different courts. In a small court, especially in rural communities, the chief probation officer, aside from his title and pay, may assume much of the work that is usually performed by an ordinary officer. Even in large courts, as in Boston and Denver, where the organization of the probation work is simple, and where the judge keeps in his own hands close supervision over a great part of the probation work, his executive responsibility may be less direct and less concentrated than where the organization is somewhat complicated. In this case he usually adds to his administrative duties the duties of an ordinary probation officer, such as the investigation of some cases or the supervision of some children on probation. In other courts, as in Chicago and San Francisco, where the organization of the probation staff is more complicated, and where the probation department is more or less independent of the judge, the duties and powers, and consequently the responsibility, of the chief probation officer are more direct and concentrated. He is responsible to the judge for the entire administrative work of the court, while the department supervisors working under his direction are responsible to him, and the rank and file of the probation staff are responsible to the department supervisors. In this case, the duties and powers of the chief probation officers are confined to general supervision over the probation staff. Much of the inside work is done by office assistants, complaint clerks, referees, court representatives, statisticians, and others, and the field work is delegated to department or district supervisors. The chief probation officer is thus relieved of much of the routine detail of administration and is enabled to devote his whole time to his general administrative duties and the formulation of general policies.

g. *Relation of Judge to Probation Staff*

The probation office is generally considered an integral part of the court, but there is great variety in methods, and considerable difference of opinion as to the proper relationship of the judge to the probation staff. From the purely legal point of view the duties of the juvenile judge are both judicial and administrative. Whether or not the judge himself takes an active part in the administrative affairs of the court depends somewhat upon his own inclination, for he is usually given power by law to intrust to the probation staff all administrative duties. It is possible for him to retain the direction of general policies, but owing to the volume of business, especially where the judge has other duties, it is often obviously impossible for him to attend to administrative details. In practice, then, the judge in most courts is responsible for the formulation of important general rules of administration, but the actual carrying out of policies is left to the probation staff.

In some courts, however, the judge is at once judge and his own chief probation officer. He directs the whole probation force, supervises the probation work, and has children on probation report to him. Unless he has ample time to devote to probation work, this system is unnecessary and inadvisable and can seldom work satisfactorily.

Aside from his primary function of the selection of cases for probation, guided by such investigation and suggestions as may be called for from the probation officer, the chief contribution of the judge in the field of probation seems to lie in formulating general policies, taking up difficult cases with probation officers, checking up the work done by them, and making effective all that they do. As a general principle, the judge should keep in close touch with the probation work and the progress of probationers by means of frequent reports and consultations and should assume leadership and responsibility, not only for the probation work, but for the entire situation, including adjudication, detention, and treatment, but he should not attend to or interfere with administrative details.

6. *CLERICAL STAFF*

The personnel of the clerical staff is usually divided into those under the supervision of the clerk of the court and those in the probation office. The clerk of the court is usually appointed by the judge in independent courts. He is usually a deputy clerk of the court of which the juvenile court is a branch. In most cases he is paid a salary but the fee system is still used in a few courts, as in St. Louis, contrary to generally accepted standards of juvenile-court organization. In the clerk's office there may be assistants, stenographers, court reporters, and court attendants; their number varies with the size of the court.

The clerical staff and the stenographic force in the probation office for writing records and other necessary clerical work is, in most courts, inadequate. The result is that much valuable time of probation officers which should be spent in the field has to be devoted to routine office work. It is certainly poor economy to burden probation officers with clerical duties, as their important work is in the field.

7. *STAFF OF DETENTION HOME*

In some places the detention home is definitely attached to and managed by the court. Its average staff usually includes a superintendent, an assistant superintendent, usually a matron, and one or more attendants. The superintendent is responsible for the general administration of the home, the reception of children, and the keeping of records. The assistant superintendent supervises the details of household management. The supervision of children is usually performed by attendants. The size of the staff varies according to the average daily population in the home.

In fully equipped detention homes, teachers, supervisors of recreation, physicians, and mental specialists are frequently assigned from other departments, usually the department of education, though sometimes they are included in the personnel of the detention home organization. When the detention home is under the management of the court, appointments to its staff are usually made by the judge either from civil-service lists or without examination.

Clinics are not necessary parts of a detention home, but their services should be readily available. The personnel in a well-organized court clinic usually includes a psychiatrist, a physician, a psychologist, one or two psychiatric social workers, a clinic secretary, and clerical service. In some places a physician alone is attached to the staff of the court.

8. *ADVISORY BOARDS*

In some states the juvenile-court law provides for the appointment by the judge of a local board or committee of citizens, variouly styled as juvenile-court committee, juvenile board, advisory board, probation committee, board of county visitors, juvenile protective association, and the like, to advise and coöperate with the court. In other states local boards already established, such as county boards of child welfare or boards of children's guardians, are directed by law to coöperate with it. In many states the judge on his own initiative and without legislative authorization frequently appoints committees or boards to advise him, or he uses some existing organization which volunteers assistance. These boards or committees serve without compensation and represent no partisan politics or self-seeking interests in the community. Their duties, in most instances, are to inspect institutions and associations to which the court commits children, to advise in the appointment of probation officers and members of the staff of the detention home, to report to the public concerning the work of the court, to assist in the administration of the juvenile-court law in general, and to render any assistance which the court may require. Their chief usefulness lies in the fact that they interpret the juvenile court to the community, and needs of the community to the judge of the juvenile court.

There is wide variation in importance and permanence of these committees or local boards. Some of them are merely advisory, others are supervisory, and still others are administrative. Some act only in a general advisory capacity, while others assist the court in one or more special phases of work. Some of them seem to be taking an active part in the work of the juvenile court, while others have been inactive since their creation.

9. *RECORDS, REPORTS, AND STATISTICS*[1]

The juvenile court is required by most juvenile-court laws to keep records of the cases which come before it and to report periodically to some state or local supervising body. The forms of records and reports may be determined by the court itself or by some state agency. Most statutes forbid public inspection of the records, especially social records, except by special order of the court.

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[1] Lenroot and Lundberg, *op. cit.*, p. 199 *et seq.*

a. *Records*

Juvenile records are of two kinds: legal records and social records.

The legal records consist usually of the petition or complaint, the summons and warrant, orders of dispositions, the court docket, the daily calendars, and other miscellaneous records. All these legal records, kept by the clerk of the court, are important, for they show that the procedure required by law has been complied with and furnish the basis for statistics on the volume of work, the charges, and the dispositions made. They should be carefully indexed, filed, and kept in such a way that reference to them can readily be made.

The social records of the court, including the social evidence of each case—the investigator's report, the physical and mental diagnosis, the children's probation history, and detention home records—are of vital importance as a part of the equipment of the court for service to children. They are documents which picture the individual human being in his own social setting, describe what he actually did to bring him before the court, and relate his experience in the hands of probation officer or judge. These records are usually kept by the probation department and are considered confidential.

The amount of information called for on various social records varies in different courts and in different types of cases in the same court. In general, the records of social investigation should cover all the facts necessary for a constructive plan of treatment—the family history, home conditions, the child's personal history, his school history, and his working history, if he has been employed. The records of physical and mental diagnosis form the basis for disposition by the court and for subsequent measurement of the results obtained. The detention home records show the reception of children, the average population of the home, and, sometimes, a considerable amount of social information. The record of supervision or the child's probation history shows the constructive work planned, attempted, and accomplished, and should give a chronological history of the supervision work. Other records commonly in use, such as the card notifying the child of the conditions of probation or notifying the parents that the child has been placed on probation, school reports, parents' reports, the recommendation for parole or discharge, and reports of violation of probation, are self-explanatory.

In most courts social records are quite inadequate. There is lack of uniformity and a wide difference in definitions, both in laws and in court usages. Record systems are sometimes too multiple and too cumbersome to be adopted by small courts in rural communities. The need of a simple record system to serve these types of courts is very evident.

In some courts social records and legal records are filed together. The methods of numbering and filing vary in different courts and may be different in the same court in handling separate records. Uniformity in the numbering and filing system will greatly facilitate the work of the court. The filing system, whether separate or combined, should be such as to permit ready identification of cases. Some courts of late have adopted the family unit for filing records, which seems in many ways a desirable practice.

b. *Reports and Statistics*

In some courts monthly reports or summaries are prepared by probation officers and submitted to the chief probation officer or to some state supervising agency. They show the number of cases dealt with and the amount of work done. They are usually compiled from the probation officers' daily reports of activities, the docket, and daily sheets.

In some courts annual reports containing, usually, a brief history of the court, a statement of the personnel of the court and of the probation office, some descriptive material relating to the jurisdiction of the court, methods used or the problems dealt with, statistical statement of the work of the court and that of the probation office, and, in a few instances, a short analysis or interpretation of the most significant facts shown by statistics, are compiled chiefly from monthly reports and submitted to the supervising agency. Sometimes they are published.

c. *Need of Standardization*

In general, there is no agreement with reference to the social information which should be included and presented, nor is there agreement as to the unit of tabulation, which is sometimes the case, sometimes the child, and sometimes groups of children involved in a single complaint. Nor is there general uniformity in the definitions of terms used. This diversity in presentation, compilation, and terminology is so great that accurate comparison of the statistics of different courts is practically impossible. Only the most general use of available figures can be made. Statistical methods must be improved and made more nearly uniform so that comparison is possible from year to year for the same court, for different areas, and for the country at large. Unless the juvenile court can put results of its work for children intelligently in the form of statistical facts, the community has no means of knowing how well its work is succeeding.

Encouraging signs are shown in the activities of the majority of the state supervising agencies in introducing and promoting uniform systems of record-keeping, in advising the best results for the current compilation of statistical material, and in planning a simpler recording system to meet the need of the smaller courts in the rural communities. The National Probation Association now has a committee on juvenile-court records and statistics, and the United States Children's Bureau is planning to promote the compilation of uniform statistics. It is really a nation-wide movement.

Chapter VI

THE PROCESS BEFORE HEARING

1. *NATURE OF JUVENILE-COURT PROCEDURE*

The jurisdiction exercised by juvenile courts is, in general, an application of common law principles, but the way in which the jurisdiction is exercised is new, and the methods of the court in dealing with children who come before it are prescribed neither by the common law nor by the rules of chancery. The proceedings are special and statutory throughout and are in the nature of civil actions.

From the legal point of view, the procedure of the juvenile court is special and statutory, but from the administrative point of view it is socialized and parental in nature. It represents a distinct departure from conventional procedure in criminal courts. In the words of Judge Charles L. Brown, "the fundamental purpose of juvenile-court procedure in delinquency cases is not to determine whether the child has committed a specific offense for which punishment must be inflicted, but to discover whether he is a subject for special protection, care, and guardianship by the community in the same degree as the child who is neglected or homeless." [1] In other words, the procedure is intended to approximate the conduct of a wise and tender parent in dealing with a wayward child. For this reason, within the general limits prescribed by statute, it is relatively unhampered by tradition and precedent.

From the point of view of diagnosis and treatment, the procedure of the court is scientific as distinguished from the procedure of a formal criminal court. The method of ascertaining facts and prescribing treatment is departing more and more from that usually sanctioned by law. In getting facts we no longer rely upon a jury and a prosecutor. That becomes the business of scientists and social workers. The technique and principles of science are applied to the study and treatment of delinquency just as they are applied in agriculture or business.

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[1] C. L. Brown, *The Child and the Court.* Address before the Civics Teachers of the Philadelphia Public Schools. 1921, p. 9.

Generally speaking, the procedure of the court signifies the whole process of the court's dealing with the child from the time when the court first lays its hand upon the child until the child is finally discharged. It includes, therefore, apprehension of the child or receiving complaints, filing petitions, detention of the child, social investigation, study of the child, informal adjustment of cases, hearing, disposition of cases, the reconstructive work with the child, and the final discharge when the child makes good. The process, like a stream, must be viewed as a continuous whole, because the process of saving the child must be viewed in that way. The spirit of the juvenile court must permeate all stages of the court's contact with the child. Procedure in most socialized courts is the essence of the matter. In the case of the juvenile court, except in general terms, there is very little substantive law. To do something constructive for the child is the goal of the entire procedure. Therefore, each contact of the court with the child must be as sympathetic, helpful, cheerful, and inspiring as the child's contact with a good clinic.

Strictly speaking, however, the procedure of the court usually refers to that part of the process which precedes the disposition of the case. The follow-up work is usually referred to as treatment. For the sake of convenience, the court procedure is here divided into three parts: the process before hearing, court hearings, and methods of treatment, which will be treated in three separate chapters.

2. *COMPLAINT AND PETITION*

In most states jurisdiction in juvenile-court proceedings is formally obtained by means of a petition filed by any interested or reputable person having knowledge of the circumstances. Such a petition alleges briefly the facts which bring the child within the provisions of the law. It should also state the name, age, and residence of the child and the names and residences of his parents or legal guardian or other person having custody of the child.

Except in a few jurisdictions where children are still regarded as criminals, the petition need not have the particularity of an indictment or criminal information.[1] If the petition is not an indictment, the petitioner is not a prosecutor and is not required to make good his case or to prepare evidence, but he may base his action merely upon information and belief. The filing of a petition is merely a method whereby the people and the court may be informed of the situation which the petitioner alleges to exist, and the people become the real party complainant and must prosecute the proceedings. The filing of the petition is, however, essential to jurisdiction.[1]

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[1] Ex parte Gutierrez, 46 Cal. App. 94 (1920); State *v.* Johnson, 196 Ia. 300 (1923).

When a petition has been formally filed, the case must be heard by the court, no matter what is the result of the investigation. In order to eliminate from the docket cases that have really no basis of fact or that could be easily adjusted without court action, the "complaint" or "information" system is provided in most statutes or adopted, in practice, by most courts. It does not signify the initiation of formal court action but merely the formal report by any person to the court of a condition that in his opinion or belief needs investigation. A petition is authorized to be filed formally only when a preliminary inquiry and investigation show that conditions warrant court action.

A petition may be filed by the person who makes complaint, by a probation officer, or, in a few instances, by a district attorney or a deputy district attorney. Though the filing of petitions by probation officers is a common practice, it is undesirable, except for violation of probation or when no other person is willing to file, for it may be confused with prosecution in criminal cases and may, therefore, hamper the work of probation officers. The filing of petitions by district attorneys, of course, savors too much of a prosecution and is practised as an expedient only in small or rural communities. If possible, petitions should be filed by parents or qualified social agencies.

The receiving of and the passing upon complaints are of great importance, for they give the first impression of the spirit of the juvenile court to the child, the parents, and the public. Officers of the court receiving complaints may be the clerk of the court, the complaint clerk, or the clerk of the probation office. The judge or the officer designated by him examines and passes upon all complaints and, usually after a preliminary investigation of the case, determines whether the case should be dismissed, whether further investigation of the case is necessary, whether the case should be dealt with informally, whether a petition should be filed, or whether some other formal action should be taken. The judge usually delegates the power of passing upon complaints to the chief probation officer and, in some cases, to the clerk of the court, the superintendent of the detention home, or some other member of the probation staff. Generally, if any person who is aggrieved by the investigation or the decision of persons other than the judge, he can insist upon filing a petition and the case must be heard.

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[1] Weber *v.* Doust, 81 Wash. 668 (1914).

The proportion of delinquency cases referred to the juvenile court either by an informal complaint or by filing a petition, or by both, give some indication of the success of the court in winning the confidence of the community. It has been estimated that in most courts a great percentage of cases are referred through arrest by police officers, and only a small percentage by the complaint of parents, relatives, schools, and social agencies. In 1920, 86 per cent of delinquency cases were referred to the court by police officers in the St. Louis juvenile court, 94 per cent in New York, 83 per cent in Chicago, and 83.9 per cent in Boston.[1] The situation may be explained by the fact that many complaints are directly made to police officers. At any rate, relatives, schools, social agencies, and, most important of all, parents, should take more responsibility than the police officers and should coöperate with the court by referring to it many cases of delinquency for constructive action before the police find it necessary to arrest the children and send them to the court.

3. *RELATION BETWEEN POLICE AND JUVENILE COURT*

The question of the relation between the court and the police department is important in view of the fact that the majority of children's cases are brought to the court by police officers. This relation naturally brings up the question of where and when the jurisdiction of the court begins. It may begin immediately upon the arrest of the child, or upon the reference of the case by the police to the court, or at the point where the court would naturally assume jurisdiction because of the filing of a petition with the court.

Practices vary in different courts. In some courts special arrangements have been made with the police department, and the jurisdiction of the court begins upon the arrest of the child. The best example is found in Boston. The Massachusetts law requires that a probation officer be notified whenever a child is arrested. The probation officer then may release the child to his parents with instructions to appear in the juvenile court, or he may hold the child in a boarding home used for detention purposes, or take him from the police station directly to the court for a hearing, according to the nature of the offense, the time of arrest, and other circumstances. In some cities, such as Minneapolis, the juvenile court assumes no responsibility for the care of a child until the case is presented by the police to the officer of the court, who passes upon all complaints, with a view to filing a petition. In some places, such as Los Angeles, Seattle, and the District of Columbia, special divisions of the police department, usually known as the juvenile bureau or the woman's bureau, exercise considerable authority over children arrested or complained of, and perform much of the work that should be centralized in the juvenile court. In these places the arresting officer has full discretion in the first instance in matters of detention. The bureau receives complaint from the arresting officer, makes most of the investigations, adjusts many cases without court action, and often places children on informal probation. The complete jurisdiction of the court begins only after the filing of a petition. In some places, such as Denver and New Orleans, the early control of the court over the child is facilitated through juvenile police officers specially assigned to the court to handle up to a certain point the cases of all children coming to the attention of the police.[1]

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[1] E. H. Sutherland, *Criminology*, p. 290.

Under proper conditions either of these plans may work well. As a general principle, however, jurisdiction of the court should begin as soon as a petition is filed or as soon as a child is taken into custody or placed in charge of an officer of the court. The police should not attempt or have power to handle unofficially cases of juvenile delinquency after the child has been taken into custody, or to place children on unofficial probation without referring them to the court, or to hold children in a station house longer than is necessary to get in touch with the court and with his parents. When the child is taken to a place of detention for juveniles, the authority of the police should cease except for giving information as to the cause of the child's arrest and filing a formal petition.[2]

Whenever it is possible to avoid it, a child should not be arrested by a police officer. If arrested, the child should be taken by the officer directly to his home, and the parents should be required to give recognizance for their child's appearance in court, unless the time of arrest, the seriousness of the offense, the home conditions, and the character of the child make it necessary to turn the child over to the probation officer or to some other designated officer of the court. The officer would then make the complaint or file a petition in the juvenile court. This does not mean, however, that police officers should not exercise discretion with regard to children whom they take into custody. Police officers can settle many trivial cases with a mere warning or reprimand without recourse to court. Every juvenile court should so educate the police that minor cases that obviously do not warrant court action can be handled intelligently and promptly without reference to the court. Only in this way will a great number of cases be eliminated without any court record whatever. Lack of coöperation and understanding and duplication of effort will make the work of the juvenile court suffer.

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[1] *Cf.* Katharine F. Lenroot and Emma O. Lundberg, "Juvenile Courts at Work," U. S. Children's Bureau, *Pub. 141*, pp. 42-50.

[2] *Cf.* Appendix I, pp. 223.

Under the laws of some states the probation officer, acting under the power of a peace officer, may arrest a child who is found violating any law or ordinance, or who is believed to be a fugitive from his parents or from justice, or whose surroundings are such as to endanger his health, morals, or welfare unless immediate action is taken. This power should be carefully exercised, for it makes the probation officer a police officer and is in conflict with the real function which a probation officer should perform. The probation officer may, however, on order of the court, take into custody a child against whom complaint has been made or who has been found in violation of probation. This is practicable even when the law does not make provision.

An important principle, which has often been violated, is that when a child is taken into custody, he should be protected from public observation and from conditions that tend to mark him as an offender. Transportation in a police van or patrol wagon, escort by a police officer in uniform, or any physical restraints are objectionable and should be avoided. Transportation of girls to a place of detention or elsewhere should be as far as possible by women officers.

4. *WARRANT OR SUMMONS*

When all the necessary processes have been completed and a date set for the hearing, a summons is served, usually by a probation officer, requiring the parent or guardian and the child to be in court at the appointed time. The issuance and service of a summons upon the person having custody of the child is held essential to jurisdiction over children.[1]

The use of the summons, or "citation," or "notice of hearing," as they are called in some states, instead of a warrant, is significant in that it differentiates the juvenile-court process from ordinary criminal procedure. The service of summons—less formal than a warrant—does not constitute arrest but failure to obey it usually constitutes contempt of court.[2] In most states a warrant may be issued if a summons seems likely to be ineffectual. In ordinary cases, a summons is sufficient to bring all the needed persons into court. Some states do not prescribe the form of orders for the appearance of persons against whom complaint is made.

Almost all juvenile-court laws provide for some form of notice of the proceeding to the parents or other persons having custody of the child. A proceeding is sometimes held void if such notice has not been served and the parent does not appear at the hearing.[3] Appearance at the hearing or waiver of notice will give the court jurisdiction even though notice had not been given.[4] On the other hand, some courts hold that while a parent who did not have notice is not bound by a decree depriving him of custody, that part of the decree which declares the child delinquent or dependent is nevertheless valid.[5] Whether or not the service of notice to those having custody of the children is a jurisdictional requirement, it has been generally held that parents and anyone who is entitled to custody can always have their day in court to determine whether or not they have been improperly deprived of custody.[6]

5. *DETENTION OF CHILDREN*

a. *Importance of Detention*

A child taken into custody by the juvenile court may be taken immediately to court and tried, admitted to bail, released without bail, or detained in a detention home or some other suitable place.

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[1] Karrib *v.* Bailey, 212 Mich. 502 (1921).

[2] In a number of states the power to punish for contempt is conferred upon the juvenile court by express provision or implied by the provision for the enforcement "in any way in which a court of equity may enforce its order." That a juvenile court has the inherent right to punish violations of its orders as contempt has been held in U. S. *v.* Latimer, 44 App. D. C. 81 (1915).

[3] Ex parte Cain, 86 Tex. Cr. Rep. 509 (1920); Ex parte Solberg, 203 N. W. 898 (N. D. 1925).

[4] In re Turner, 94 Kan. 115 (1915).

[5] People *v.* N. Y. Nursery and Child's Hospital, 230 N. Y.119 (1920).

[6] Bleier *v.* Crouse, 13 Ohio App. 69 (1920).

The provision for temporary custody and care of children during the interval between apprehension and disposition of the case is a necessary part of juvenile-court organization. It is the logical outgrowth of the laws providing for separation of juvenile offenders from adult criminals after arrest and prior to disposition. Under the old system of court trials, children, who were arrested for having violated the criminal laws, were required either to give bond for their appearance at the trial or to go to the common prison to be confined with adults until the case could be heard.

Most juvenile-court laws now absolutely prohibit the practice of detaining children in jails and police stations, though exceptions are sometimes made if the child is over a certain age or if the offense is of a serious nature, and even in these cases the law usually requires that they be kept apart from adults. Yet in practice, children were detained in some jails in every state of the Union in 1918 according to the study made by the United States Children's Bureau in that year.[1] At present, the practice of detaining children in jails and police stations is still far too common.[2] Children are detained in jails either because detention facilities are lacking or because it is believed that certain types of delinquents, usually older boys, can be safely handled only in jail. Detention of children in police stations from a few minutes to several hours or overnight, while their parents are being sent for or until decision is made with reference to the action that should be taken, is a common practice. During these periods the children are usually cared for in the matron's room, the guardroom, or the signal room. Girls are seldom detained in jails or police stations.

In the majority of cases, it is considered best to allow the child to remain at home and to issue a summons for the parents or guardian or other person having custody of the child to bring the child to court at an appointed time for hearing, unless the home conditions are such as to warrant his immediate removal. The personal recognizance of the child or parent or other person is usually substituted for collateral, bail, or appearance bond. These securities, though generally provided by juvenile-court laws, should be used only in exceptional cases, for they have as their alternative the detention of the child, regardless of his character.

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[1] Belden, *op. cit.*, p. 49.

[2] For example, in Georgia, 163 children under 16 years of age were detained in jails in 22 counties in 1923; 242 children between 16 and 18 years of age had the same experience. According to information obtained by the United States Children's Bureau in 1925, a total of 1,525 children of different ages was detained in jails and police stations in 67 medium-sized cities in that year. See U. S. Children's Bureau, "Dependent and Delinquent Children in Georgia," *Pub. 161*, pp. 10-14; Katharine F. Lenroot, "Progressive Methods of Care of Children During Juvenile-Court Hearing," *Proc. Natl. Probation Assoc.*, 1926, p. 216.

b. *Principles Governing Detention*

There are several well-recognized principles which govern the policy of detention. These are:[1]

1. *Place of Detention.* Children should not be detained in jails or police stations. Either a public detention home or boarding homes under the supervision of the court should be provided and made available to the entire area over which the court has jurisdiction.

2. *Purpose of Detention.* Detention should be limited to children for whom it is absolutely necessary, such as children whose home conditions make immediate removal necessary, children who are beyond the control of their parents or guardians, runaways, and those whose parents cannot be relied upon to produce them in court, children who have committed offenses so serious that their release pending the disposition of their cases would endanger public safety, and children who must be held as witnesses. In other words, the chief function of a detention home is to serve as a safekeeping place and as a place to hold those who are material witnesses.

Detention homes are frequently called upon to serve as laboratories for the study, observation, and treatment of children. The wisdom of detaining children solely for this purpose is justifiable only when adequate clinical facilities for physical and mental examinations and opportunities for social investigation are available and when attendants are able to make studies and observations scientifically of value. Often the detaining of children for this purpose is of little practical value, for children under such unfamiliar surroundings do not show their normal social behavior. Even where such facilities are complete and the surroundings are favorable, it is thought by some that where clinics for mental and physical study of children are available, those who do not need detention for the purpose of safekeeping should attend by appointment from their homes.

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[1] *Cf.* Appendix I, pp. 224-225; Lenroot and Lundberg, *op. cit.*, pp. 52-54.

Detention homes are occasionally used as short-term disciplinary institutions. Judge Lindsey was the first to use the detention home for this purpose by committing children thereto either on remand or on definite sentences.[1] The practice has been regarded as a halfway measure intermediate between probation and commitment to institutions. Authorities on the subject generally believe that a detention home is not properly a penal institution and should never be used as a place of punishment *per se*. It savors too much of the ten-day sentence in the county jail, which is generally considered both objectionable and worthless. It is inconsistent with the use of the detention home as a refuge in other cases, such as cases of dependent and neglected children. Some states, as California, expressly prohibit its use as a place of punishment.

Detention homes are sometimes used for other purposes, such as housing lost children, homeless children, foundlings, children awaiting admission to institutions, children on probation who do not have suitable homes, feeble-minded children, and mothers with illegitimate babies. Many of these depend upon local conditions and local needs. It may be said in general that these might result in a complex institution very difficult to administer.

3. *Length of Detention.* The length of detention in each case should be as short as possible. This may be accomplished through frequent court hearings, prompt investigation of cases, a sufficient court staff to expedite the movement of cases, adequate facilities for institutional care, and adequate means for ascertaining promptly the home conditions and the possibilities of care by the parents.

4. *General Equipment.* When detention care is needed, it should be provided under conditions suited to the needs of the children. While in detention, their physical and moral welfare must be safeguarded and their time occupied with wholesome work, education, and recreation. A detention home should not only be a place of safekeeping; it should be a school and a home at the same time. The child should live as normally as possible in work, school, and play. A medical program should be provided for correction of physical defects and prevention and treatment of infectious diseases. In short, detention should be constructive and not destructive and the place of detention should be de-institutionalized as far as possible.

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[1] A. W. Towne, "The Place of the Juvenile Detention Home in the Community," *Proc. Natl. Probation Assoc.*, 1917, p. 59.

5. *Segregation.* Within the detention home there should be adequate segregation according to sex and according to color, age, types of cases, and physical and mental conditions within each sex. As to the types of cases, it is thought by some that there is some justification for detaining both delinquent and dependent or neglected children together under the theory that both need the care and protection of the state, and that if both sorts of children are kept together, the criminal stigma would be removed. This practice is generally disapproved. It may be convenient but it would not remove the stigma. On the contrary, the stigma would be attached to the neglected or dependent child as well as to the delinquent. Authorities on the subject agree that if conditions permit, as in large communities, the segregation of the two, at least within the home, is very desirable.

6. *Control of Detention Home.* The juvenile court should take over the entire responsibility for the administration of the detention home, including the appointment and removal of the person in charge, or, at least, should control its policies and the admission and release of children. Decision as to detention should rest with the judge or some one designated by him, usually the chief probation officer. This control is necessary to bring the policy of detention into harmony with the principles of the juvenile court.

c. *Methods of Detention*

If a child should not be kept in a jail or a police station and, as sometimes is the case, he should not be allowed to remain at home, it is evident that there should be a suitable place provided for his care. Such care is usually provided by means of a detention home, a family home, or some other expedients. The methods of detention differ in various communities and depend, in part, upon the number of children to be detained and the type of areas served.

1. *Detention Homes.* In large cities the problem of detention of children is usually met by provision of a detention home under the management of the juvenile court or closely connected with it. In some places the detention home, entirely independent of the juvenile court, is under the management of the police department, as is the case in the District of Columbia and Los Angeles, or of some other public authority, such as the county board of commissioners in Cook County. The purpose and the types of detention homes vary greatly in different communities. In one city, as in Buf-

falo, it may be used only for children charged with delinquency, while in another, as in Denver, it may be a complex institution performing services of many kinds. The desirable type of detention home combines security against escape, home-like equipment, and, sometimes, opportunities for diagnosis. Some cities have costly and well-equipped detention homes; the home in Chicago cost $1,000,000; in Philadelphia, $200,000; in San Francisco, $200,000; and in Los Angeles, $150,000.

In most places the court or the officers of the detention home who are subject to the authority of the court exercise control over children detained, with reference to release. This discretion may be vested in the chief probation officer, the probation officers, the superintendent of the detention home, the investigators, the clerks, or other officers of the court. In some places where the court has no control over detention until a petition is filed, the police officers usually have full power of release or detention in cases originating with them.

2. *Family Homes.* By 1918, except in the central district of the city of Boston, the plan of boarding children in private family homes for the purpose of detention, generally known as the "Boston plan of detention," was found chiefly in states having much rural territory, such as Kansas, Michigan, Nebraska, Minnesota, and South Dakota.[1] There has been considerable development of boarding-home plans both in rural and urban districts since that time; for example, in Wilkes-Barre and Chambersburg, Pennsylvania, St. Louis, Missouri, Los Angeles, California, Madison and Kenosha, Wisconsin, Charleston, South Carolina, Augusta and Columbus, Georgia, Gadsden and Tuscaloosa, Alabama, parts of Virginia, North Carolina, and Massachusetts, and some of the rural counties of New York, Indiana, and North Dakota.[2]

The adoption of the Boston plan of detention must depend upon the character of the community, the availability of the child-placing agencies, and the technique that has been developed in this specialized task. The plan is especially advisable in small cities and rural communities where the number of cases is too small to warrant the establishment of a detention home, and where coöperation with other existing institutions of the community is not practicable or desirable. The plan is also worthy of consideration in large cities as a possible means of supplementing the facilities of a detention home by providing more individual care for certain types of children. In a few places, especially in Virginia, it is so extensively and successfully used that it will probably entirely supersede detention homes. The question of the relative desirability of boarding homes and detention homes is, for the most part, still to be worked out. In most communities, however, in which the volume of court work with children is large enough to warrant it, the establishment of a detention home, under intelligent management, is probably the most feasible arrangement.

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[1] Belden, *op. cit.*, p. 48.

[2] *Cf.* Katharine F. Lenroot, "Progressive Methods of Care of Children Pending Juvenile Court Hearing," *Natl. Conf. Social Work*, 1926, pp. 137-139.

Boston is unique in that a well-organized juvenile court in a fairly large city has no special detention home, though a shelter for use in the care of neglected children is maintained by the Society for the Prevention of Cruelty to Children. This is mainly because high standards of child-placing, with regard to dependent children, were developed prior to the establishment of the juvenile court, and the service of the Boston Children's Aid Society has been instrumental in the development of the use of family boarding homes for detention purposes after the establishment of the juvenile court in 1906. This society in coöperation with the court has been for some years providing detention in eight or ten family homes on a non-institutional basis for nearly all delinquent boys and girls who could not remain at home pending hearing and disposition of their cases by the juvenile court. It is entirely responsible for the selection and supervision of the homes through its supervisor of the detention service. These are highly specialized tasks.

The essentials of the plan are that not more than one or two children are cared for in the same home at the same time, and that the care of boys and the care of girls is entirely separate. These homes are paid small monthly subsidies by the society and the court pays board for the children at a daily rate. The boarding woman is always at service and has a professional attitude toward the work.[1]

The arguments for and against the Boston plan of detention may be summarized. The advantages claimed for this plan are: (1) It tends to keep the child in his own home until the hearing, while the existence of a detention institution is an invitation to place children in it; (2) it is more economical, considering the investment in buildings and furnishings and the cost of maintenance of well-equipped detention homes;

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[1] *Cf.* Lenroot and Lundberg, *op. cit.*, p. 80.

(3) it makes it possible to isolate children with special problems and special needs, especially those with sex complexes, who should not be permitted to be in the general institution; (4) it gives a better opportunity to study the child, since the child is more at ease in a family environment; and (5) it gives less publicity and obviates stigma, which usually is attached to detention in a public institution and tends to humiliate the child and his family.

The objections usually raised against the plan are: (1) The private room is not safe against escape and consequently many children, especially older and serious delinquents, must be held in jail; (2) it is difficult to secure suitable homes, and the tendency is to take such homes as can be induced to care for the children.[1]

3. *Other Methods of Detention.* Other methods of detention include special detention rooms, rooms of probation officers, sheriff's residences, public institutions such as county farms, the board of children's guardians, and the department of public welfare, and private institutions such as orphanages, almshouses, Salvation Army lodging houses, and the like. These methods of detention are not, in general, satisfactory, because they offer many difficulties to separation, classification, and supervision. They are adapted only to communities where a very small number of children are likely to need detention care at the same time. In most cases, they are preferable to the jail, but they certainly do not serve as a permanent substitute for the jail and are merely a temporary makeshift.

d. *Equipment and Administration*

Detention homes may be adapted or specially built. To remodel a private residence is less expensive and is advisable in small communities. Its disadvantage is that it usually does not permit adequate segregation, installing of proper sanitary facilities, and the combination of court room, probation office, and detention home, which is a desirable arrangement.

The types of equipment and administration vary in different communities with the average daily population of detention homes, the number of children detained during the year, and the average duration of detention care.

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[1] Elizabeth P. Durham, "Boston's Child Court System," *Survey*, 45: 250-252, November 13, 1920; Lenroot and Lundberg, *op. cit.*, pp. 78-87; A. F. Whitman, "The Boston Plan for Temporary Detention Care for Children of the Juvenile Court," *Proc. Natl. Probation Assoc.*, 1924, pp. 166-168; Sutherland *op. cit.*, p. 236.

The physical essentials of an adequate detention home are proper diet, safety for its inmates, sufficient accommodations for sleeping, educational, and recreational facilities, proper lighting and ventilation, proper segregation, and sanitary conditions. Segregation is necessary at least during the hours when the children are not engaged in activities which make impossible undesirable intimacies. Some provision, such as the use of iron screening, for securing the windows against a possibility of being used in escape is usually considered necessary. Constant, effective, and intelligent supervision both during the day and at night must be maintained. Children should be kept in isolation pending physical examination and laboratory tests. This is important to prevent the spread of infectious diseases.

One of the fundamental features of adequate detention service is the arrangement of the daily program so that the child's time will be fully and wholesomely occupied. It is for this reason that the provision of school facilities in detention homes is so important. Recreation, both indoors and outdoors, and occupation such as house work, gardening, and caring for poultry should also be provided for part of each day. The daily program should be full and varied in order that constructive interests may supplant morbid tendencies and undesirable companionships.[1]

After all, successful administration of detention homes depends more upon the trained personnel of experience, good judgment, understanding, and ability to win the confidence and respect of the child than upon elaborate and expensive equipment.

6. *SOCIAL INVESTIGATION*

A legal provision for a social investigation, preliminary to the hearing, may be found in almost every juvenile-court law. Statements vary from a brief provision that the probation officer shall inquire into the status of the child in his home and report the findings to the judge at the time of the hearing, to the comprehensive provision in some juvenile-court laws that the probation officer shall inquire into the antecedents, character, family history, environment, and cause of the delinquency or dependency of every alleged delinquent or dependent child.

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[1] Appendix I, p. 225. *Cf.* Katharine F. Lenroot, "Juvenile Detention Homes," *Proc. Natl. Probation Assoc.*, 1921, pp. 99-100.

a. *Importance of Social Diagnosis*

Scientific diagnosis of the case, that is, inquiring into environmental conditions of the child, is generally recognized as an essential part of the court procedure. Since the delinquent child is not considered a criminal but a child in need of protection, the problem of the judge is not fundamentally to decide the fact, nature, and degree of a specific offense, but, in the oft-quoted words of Judge Julian W. Mack, is to determine "What is he, how has he become what he is, and what would best be done in his interest, and in the interest of the state, to save him from a downward career?" [1] Hence, in deciding a case, we must take into consideration not only the particular offense which brings the child into court but all facts as revealed by thoroughgoing social and physical and mental diagnoses. Individual children vary from one another physically and mentally as well as in their background, training, and experience. Only by means of these diagnoses can a comprehensive understanding of all the significant aspects of each case and each child be obtained and individualization of treatment according to these findings possibly be formulated. Such a study is a direct scientific approach to the individual and his needs rather than to an offense and its penalty. It finds its analogy in the medical clinic, where diagnosis precedes treatment, where the final aim is prevention rather than cure, and where all cases must be handled as individuals. This is an essential application of the philosophy on which the juvenile court rests. It is a study of the individual with attention directed to his attributes, as they make him the person he is, and differentiate him from others. Its aim is a true understanding and intimate knowledge of the individual and his behavior. Behind this study lies a purpose all too seldom recognized—the desire to help him in preventive or corrective fashion.

Facilities for social investigations, that is, investigations of the home and environmental conditions of the child and the circumstances of the condition alleged, are more complete than are those for the study of the physical conditions and the mental life of the child. Though the principle of scientific study of the case is well recognized, still the practice does not obtain in very many juvenile courts, due largely to the lack of facilities and techniques. Too frequently the disposition of children's cases still rests upon guesses or prejudices rather than upon knowledge and understanding. The investigations should conform, in general, to standards developed by family relief and child welfare agencies. The technique is that of a good case worker, and the investigation must necessarily vary from case to case.

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[1] J. W. Mack, "Legal Problems Involved in the Establishment of the Juvenile Court," in *The Delinquent Child and the Home*, by Breckinridge and Abbott, p. 198.

b. *When and by Whom Investigations Should Be Made*

When a complaint is made directly to police officers, a police investigation, including home visits and interviews with parents, children, and others involved, is usually made by the police department before referring the case to the court in order to ascertain the truth or falsity of the complaint, to secure necessary facts about the child, such as his age, address, and name and address of parents, and to determine whether or not the case should be turned over to the court or adjusted without court action. This investigation usually forms a basis for further investigation by the probation officer, but it is important that all cases thus referred that need investigations should be thoroughly investigated by officers of the court or its authorized agents. The information which the probation officer receives about a child from the police before making his own investigation, though useful to some extent, is often fragmentary and is often biased by the desire to "make a case."

Whether or not a police investigation is made, a preliminary investigation of the child's environment is usually made by probation officers of the court or by its authorized agents, after receiving a complaint or information and prior to the filing of a petition, in such cases as need an investigation. Such a preliminary investigation makes it possible for the court to determine whether the public interests or the interests of the child require that a petition be filed formally or that the case be adjusted without court action.

When a preliminary investigation after the assumption of jurisdiction and prior to the filing of a petition is not made or is not complete, a thorough social investigation must be made, at least once, prior to hearing in all cases that need it. This investigation is fundamental in that it points to the proper measure of treatment that should be adopted in disposing of cases. To make disposition of the case before a social investigation is "to put the cart before the horse." In some courts, the hearing is frequently held on the day the complaint is made, and, for this reason, a thorough investigation prior to hearing is not possible. There must be enough of an interval between the making of complaint and the hearing to make an adequate investigation possible. Otherwise this hearing must be a preliminary one, as in Boston and the District of Columbia, and the case should be continued for investigation and observation for a longer period. This is necessary because a pre-court investigation is often insufficient to determine the kind of treatment that should be given.

In most courts social investigations are made by probation officers, who are also engaged in supervising children and families, but in some courts, as we have noted before, special investigators devote their full time to this work.[1] When cases, especially truant, dependent, and neglected cases, are brought to the court by coöperating social agencies, the investigation by the agency is usually accepted by the court. The court, however, should hold the probation force fully responsible for the character of investigations made. If it is necessary or convenient to secure investigations through truant officers or children's societies, the probation officer of the court should see that the methods used are proper, should check up and review all investigations that are presented to him, and should verify them, if necessary, by a supplementary investigation of his own. Only in this way can investigations be made systematic, uniform, and impartial.

Other investigations, which may be mentioned here in passing, are the so-called special or supplementary investigations. These investigations are made after the disposition of the case for the purpose of release or parole from institutions, a change of custody, and so forth. They involve examinations of homes and neighborhood and differ somewhat in character from original investigations described above.

c. *Nature of Cases Investigated*

Although it is desirable that social investigation should be made, as far as practicable, in every case, certain exceptions are usually found even in a well-equipped court, depending largely upon the inclination of different judges. Cases involving violations of city ordinances or cases of a very trivial character, such as traffic cases, ball-playing on the streets, and building fires on vacant lots, generally need no investigation. They do not involve acts of moral turpitude, neglect on the part of the parents, or danger of leading an idle, dissolute, or immoral life. The mere fact that a child has been brought before the court does not justify a lengthy investigation, if there is nothing to indicate that the influence is improper, that the surroundings are not good, or that there is danger to the minor's health or morals. In most courts investigations are made only when the cases are of a serious nature, or when there is possibility of informal adjustment, or when disputed facts or indications of special needs become evident during the preliminary hearing.

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[1] *Supra*, pp. 87-88.

d. *Scope of Investigation and Sources of Information*

Specifications of information required on the investigation forms vary from court to court. What is called for therein is not always recorded in completeness.

1. *In Delinquency Cases.* Katharine F. Lenroot and Emma O. Lundberg in their study, *Juvenile Courts at Work*, consider the following as the essential points to be covered by the social investigation in delinquency cases:[1]

(1) The cause of the complaint.
(2) The child's developmental history, habits, and conduct, including previous delinquencies.
(3) Home conditions:
    a. Composition of the family; occupations, earnings, and characteristics of its members; and assistance from social agencies.
    b. Type of dwelling, and living and sleeping arrangements.
    c. Conditions in the home which may have a special relation to the child's conduct.
    d. Constructive possibilities in the home.
(4) The child and his school:
    a. Present standing with reference to academic progress and conduct.
    b. School history.
(5) The child's working history (if he has been employed).
(6) The child's recreational activities and connection with churches, clubs, and other organizations.

According to the same authorities the sources of information with reference to these points may include:[2]

(1) An interview with the child.
(2) A visit to the home and an interview with one or both parents (preferably both).
(3) Interviews with relatives, neighbors, and companions.

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[1] Lenroot and Lundberg, *op. cit.*, p. 89.
[2] *Ibid.*, p. 89.

(4) Interviews with principals, teachers, and officials of the school-attendance department; school records.
(5) Interviews with employers, past and present.
(6) Inquiry of social-service exchange and social agencies that have known the child or family.

Both the scope and the sources of information are almost limitless and should be determined in each case. In estimating what is essential and what is non-essential, much depends upon the good judgment of the investigator. No definite rule can be laid down, because no two cases are exactly alike.

The cause of complaint is secured from the arresting officer, the complainant, and the witness. In the interview with the child, usually held privately at his home, at the probation office, or at the place of detention, importance is attached to his statement of his point of view and the circumstances of the offense. Interview with one of the parents, preferably both, is usually held at office or at home. The information obtained from the parents is frequently supplemented by visits to other relatives, friends, neighbors, and the family physician. Interviews like these must be guarded against being prejudicial to the child or his family. Through interviews with the child and parents, supplemented by data obtained from other sources, more or less complete information is secured with reference to the child's family history, personal history, including his habits, associates, and general conduct, his vocational preference, his physical and mental development, his school history, his working history if he has been employed, and his previous delinquencies. The schools and the employers are important sources of information in all cases involving school children and working children, as to their school and working history, including their habits and character. These sources of information are not extensively utilized, because interviews with teachers or employers are sometimes prejudicial to the child.

Family circumstances and home conditions are investigated for information as to the physical and sanitary conditions of the home, the composition, the economic status, the religious affiliations, the moral standards, and the general atmosphere of the family. Information regarding these items are important in disposing of cases, for whether a child should be put on probation in his own home or in a foster family home, or sent to an institution, or whether one kind of remedial measure or another should be meted out to the child mainly depends upon a study of these causative factors of the child's delinquency. The complicated forces that make up environment in each case are psychological as well as physical. For this reason, in investigating home conditions emphasis should be put not only on the physical and economic status of the family, but also on the attitude of the members of the family toward each other—the relationship of the parents to each other and each parent's attitude toward each other as regards the child, and the child's attitude toward each parent—and the causes of irritation and unhappiness that may exist in the family circle, an analysis of which is important in connection with the disposition of the case. In dealing with any child, it is really the family, and not the child, which is the unit with which the court is dealing.

The existence in many cities of a confidential exchange or social-service exchange, where various agencies register their cases, makes it possible for the courts to secure information in all cases as to whether or not the families had been known to other agencies. This source is utilized to some extent by almost all courts, where such an agency exists. Most families whose children come before the court are known to some social agency, such as health agencies, day nurseries, school visitors, and agencies engaged in vocational or in recreational work. This access to information known by other agencies facilitates the court's investigation and often serves as a basis for treatment which could otherwise be determined only by long acquaintance with the child or his family.[1]

2. *In Dependency, Neglect, and Other Cases.* The investigations in cases other than delinquency are much alike in principle, although the points of emphasis are different. The investigations in dependency and neglect cases are often left to private or public agencies, which initiate court action. In any case, these investigations do not differ materially from investigations in delinquency cases as far as the facts regarding the family and the home and the information gained from social agencies are concerned. Here, however, the family is the chief consideration and the personal history of the child is only secondary.

In the mothers' pension cases the emphasis in the investigation is put on the economic status of the family, such as the family income and expenditure, the family need, and the facts which are essential in establishing the right to aid, such as length of residence, date of marriage, date of death and cause of death of the father, and amount of property and insurance.[1]

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[1] For social evidence and sources of information from the point of view of social case work see Mary E. Richmond, *Social Diagnosis*, pp. 38-100, 103-370. This book covers all important points in social investigations.

In adoption cases the emphasis of the investigation should be placed on the character of the prospective foster home and conditions in the parental home. Due consideration should be given to the welfare of the child and the rights of the natural parents, including the possibility of preventing the removal of the child. In some courts, if adoption cases come through a public or private institution, investigations made by it are usually accepted by the court. Letters of references and recommendations sometimes take the place of investigations, in part at least. In both adoption and illegitimacy cases thorough social investigations are not always made, contrary to the purpose of placing them under the jurisdiction of the juvenile court.

Investigations in adult cases, such as cases of non-support and contributing cases, are less generally made, although the purpose of placing these cases in the juvenile court is to secure socialized treatment through adequate investigation.

7. *PHYSICAL AND MENTAL EXAMINATIONS*

a. *Need of Scientific Study of the Child*

All the facts that a social investigator can ascertain about the child's surroundings reveal only a part of the child's history. In order to study the child as a whole and to know the human material with which the court deals and the real causes of delinquency, the child himself—his physical condition, his mental life, and his personality—must be studied by a competent physician, psychologist, and psychiatrist. Mental and physical defectiveness, next to defective environment, is generally recognized as the greatest cause of delinquency. It has been estimated that more than one-half of the children that pass through the juvenile court show physical and mental disabilities that are fundamental factors in the delinquent conduct,[2] and only the expert physician, psychologist, and psychiatrist can fully appreciate these. A scientific understanding of each child is absolutely necessary if treatment is to be adapted to individual needs. No juvenile court at present deems itself well-equipped without medical, psychological, and psychiatric service available in all cases.

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[1] For the process of investigation in mothers' pension cases see Edith Abbott and Sophonisba P. Breckinridge, "Administration of the Aid-to-Mothers Law in Illinois," U. S. Children's Bureau, *Pub. 82*; Florence Nesbitt, "Standards of Public Aid to Children in Their Own Homes," U. S. Children's Bureau, *Pub. 118*.

[2] V. V. Anderson, *The Psychiatric Clinic in the Treatment of Conduct Disorders of Children and the Prevention of Juvenile Delinquency*, National Committee for Mental Hygiene, p. 32.

b. *Physical Examinations*

1. *Value of Physical Examinations.* Physical disorders are responsible, at least indirectly, for a part of the delinquent's personality and behavior characteristics. Every physical defect—pathological growth of adenoids and tonsils, chronic infection of ears or teeth, to name only a few of the commonest ailments and defects of children—is more or less a source of nervous irritation and, consequently, of restlessness and possibly of a feeling of inferiority. Though none of these localized ailments and defects directly produce delinquency, they can readily bring about states of general ill-health and may be indirect causes of delinquency. There are many physical ailments and defects which may be conceived of as needing treatment in the delinquent child, but mainly from the standpoint of offering the best possible basis for reformation, and not because such ailments are direct causes of delinquency. Physical exuberance, such as physical overdevelopment, superabundant energy, and premature sex development, may also be a cause of delinquency, but it is difficult to ascertain positively the direct cause in any given case.[1] Physical examinations of children before the courts frequently disclose conditions of physical disease, physical defects or physical ill-health, the improvement of which may result, as told in numerous "juvenile-court stories," in the removal of important contributing causes of delinquency.

2. *Facilities for Physical Examinations.* Physical examinations are given much more generally than mental examinations. Practically all the juvenile courts in large cities have facilities of some kind for physical examinations. These examinations are usually made by physicians who are attached to the staff of the court or who regularly make this examination for the court. In most small communities examinations are made by private practitioners or physicians holding some public office, such as city or county physicians or health officers.

3. *Types of Cases Examined.* In some courts these physical examinations are those required by law before commitment to institutions rather than those for the purpose of securing

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[1] *Cf.* Wm. Healy, "The Treatment and Prevention of Delinquency," in *The Child: His Nature and His Needs*, by M. V. O'Shea, (editor), pp. 232-260.

complete information in regard to the case in hand. In the majority of places where the examination is part of the investigation and is not made merely in connection with commitment, only those children are examined who give evidence of abnormal physical conditions. In other places in which there are physicians regularly attached to the court, every child who passes through the detention home is given a physical examination for the purpose both of protecting the detention home population from the spread of communicable disease and of studying the child as a preliminary to deciding upon treatment. It is, of course, unfortunate when the services are confined to the detention home population. In some places a cursory physical examination is merely part of the routine investigation.

Physical examinations usually cover general physical conditions, nourishment, disease, defects of the body, especially those of the eye, nose, throat, ear or teeth, and, in the case of older children, the presence of venereal disease when that is known or suspected, and sometimes, in the case of older girls, the question of pregnancy. These examinations have as their chief purpose to discover and to correct in the individual child physical defects. In certain cases they may also furnish scientific data in the study of degeneracy and delinquency. In the case of girls, the examination for the presence of venereal disease and for determining the question of pregnancy should be made by a woman physician.

c. *Mental Examinations*

1. *Value of Mental Examinations.* The mental life of the child is a most important consideration; delinquency arises not alone from a child's way of doing but from his ways of thinking. Exterior circumstances, such as poverty and bad environmental conditions, cannot be considered as the only explanation of misbehavior. It is a familar fact that the same environment may mean very different things for different persons, partly on account of innate differences between individuals and partly on account of previous experiences that have formed mental associations and mind-sets.[1] Nor can misbehavior be explained alone in physiological and anatomical terms or by the theories that the offender is abnormal biologically, a physically stigmatized individual, the product of atavism, or an example of degeneracy. The know-

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[1] See Wm. Healy, "The Psychology of the Situation: a Fundamental for Understanding and Treatment of Delinquency and Crime," in *The Child, the Clinic and the Court*, p. 42.

ledge of the character of men and the causation of delinquency are not so simple and cannot be so simplified. Nor is it any longer sufficient to determine by a mere labelling process whether the child is feeble-minded, backward, or psychopathic. A psychological testing mainly in terms of a numerical intelligence quotient cannot explain wholly the causations of delinquency. The chief factors in the causation of delinquency are emotional rather than intellectual. The vast majority of delinquent children are quite normal mentally, and feeble-minded are not necessarily delinquents.[1]

The environmental and physical estimates and the intelligence tests as an approach to the causations of delinquency are valuable indeed, but they are in most cases only partial and indirect. These materialistic studies fail to tell us the whole story of why an individual becomes an offender. The child must be studied quantitatively as a whole by a direct approach to the whole problem of delinquency through his ideational life—the interplay of emotion, personality, and social experience. The psychologist and psychiatrist should be responsible for piecing together all of the facts to be discovered about the child. All factors, mental, congenital, personal, environmental, or otherwise, that contribute to antisocial behavior, should be taken into account. This is sometimes called the "psychiatric approach." It is a quest for definite accurate knowledge that will help us to better understand the individual delinquent and why he behaves as he does.

2. *Facilities for Mental Examinations.* As the relation of delinquency, dependency, and truancy to mental conditions is becoming better known, juvenile courts begin to appreciate more and more the value of mental examinations in deciding upon the proper disposition of cases. The number of juvenile courts having mental examinations in clinics, maintained as a part of the court organization, is very small. In most courts, mental examinations are obtained by the cooperation of other public or private agencies. These include child-guidance clinics established under the Commonwealth Fund Program for the Prevention of Delinquency, state institutions for the insane or feeble-minded, out-patient clinics held by the state hospitals for the insane, mental clinics maintained by the county or city, clinics or examiners connected with educational systems or mental hygiene societies or other

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[1] *Cf.* Wm. Healy, "The Practical Value of the Scientific Study of Juvenile Delinquency," *Proc. N. Y. State Conf. Char. and Corr.*, 1922, pp. 28-36.

organizations, and the services of private specialists or members of the staffs of public or private institutions.[1]

3. *Types of Cases Examined.* The courts having special provision for mental examinations do not examine all children who come before them. In some courts the examinations are confined to mental disease, in others, to mental defect. The mental life of the child as a whole must be studied in order to discover the causes of troubles. As far as possible, mental study of the child should be made at least in all cases in which the social investigation raises a question of special need for study, and it should be made before a decision is made concerning treatment.[2]

d. *Correlation of Social, Physical, and Mental Findings*

In the study of the child, the individual and his environment are necessarily interrelated and interwoven and the total situation must be viewed as an integral whole. No feature of the situation should be left out or considered separately. All factors in the case, biological, psychological, social, economic, and pathological, must be viewed in the whole situation. Behavior is always the result of an interplay of forces between the individual and his environment, social, physical, and mental, present and past. Therefore, one must correlate and consider together the social, physical, and mental findings in order to understand the child's delinquency and to form a basis for treatment. This brings us directly to the point, repeatedly emphasized by Dr. Healy in his writings, that the scientific study of juvenile delinquents compels the inclusion of the social field and the careful correlation of all the facts and circumstances surrounding the child. He stresses the fact that delinquency is not due to a single cause but has multiple causes and that the combinations of causations are extraordinarily varied from case to case.[3]

This conception points emphatically to the errors which must follow examinations consisting merely of a series of physical and mental tests of the individual, however well-devised, if unrelated to the social elements which may have conditioned the physical and mental state. The truth often ignored is that the study of mental life cannot be undertaken apart from relationships to the physical make-up of the individual or apart from his social setting. Hence, the psychological and psychiatric study must be interpreted in the light of the physical and social findings. They are all interrelated and each is important. They form a life history of the emotions of an individual. It is the business of a psychiatric social worker to relate these findings and to apply the diagnosis to the correction of difficulties. Probation officers and the clinic staff should furnish necessary information to each other. Many courts are weak on this point and, as a result, the findings are of little value when each stands alone.

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[1] *Cf. supra*, p. 26, and *infra*, pp. 199-203.

[2] *Cf.* Appendix I, pp. 225-226.

[3] See Wm. Healy, "The Practical Value of Scientific Study of Juvenile Delinquents, U. S. Children's Bureau, *Pub. 96*, p. 26 *et seq.*

When the multitudinous facts are summarized, analyzed, organized, and creatively interpreted, treatment is adopted accordingly. Recommendations to the judge as to the treatment that should be given are made either by the person making the social investigation or the chief probation officer or the person making the mental examination.

8. *INFORMAL ADJUSTMENT OF CASES*

a. *Policy of Informal Adjustment*

One of the most important features of the juvenile-court procedure is the elimination of cases that do not require formal court action or prolonged treatment and the informal or unofficial adjustment of problems involved in these cases. Prior to the filing of a petition, children are often given treatment and placed under supervision by common consent of all parties concerned when judges or probation officers deem that no formal judicial treatment or official determination of the child's status is necessary. In most courts many adult cases are also informally adjusted, especially cases of family desertion and non-support. Children's cases, in most instances, are delinquency cases, but dependency, neglect, and other cases are also frequently so treated. This can be done without explicit statutory authority, for the court has an inherent right to exercise discretion as to taking official jurisdiction. The weapon used in informal adjustment of cases is moral suasion, backed by the potential authority of the court. When properly used, this method obtains the same results as the method of arraigning every case in court.

The practice of informal adjustment of cases has developed spontaneously and almost universally since the establishment of the juvenile court, but it has attracted wide attention only since the end of the first decade of the juvenile-court movement. It has arisen naturally from several causes, the principal of which would seem to be the following: first, the immediate offense complained of seems so trivial that it can best be settled with a warning to the child without any formal court action; second, parents and others bring to the attention of the officers of the juvenile court problems of the child's conduct or environment which call merely for advice or for direction and social adjustment rather than discipline; and third, the character of the home and environment are such as to promise favorable results without the formalities of hearing and determination of delinquency.

b. *Practices of Informal Adjustment*

Practices with reference to informal adjustment of cases vary greatly in different courts. They vary from field adjustment, unofficial hearing, unofficial probation, and other unofficial dispositions, such as reparation for damages done and reference to private child-caring agencies. Cases are often adjusted by the investigating officers at field without any court action whatever, If interviews show, however, that more than an immediate adjustment of the difficulty by the probation officer is needed, the judge or the chief probation officer holds an informal hearing of a confidential nature, at which the child, his parents, and frequently the complainant are present. This is generally known as the informal-conference method of hearing cases and is extensively used in some juvenile courts, as those in Denver and Seattle. The case may then be dismissed with or without a warning or an advice to the child or his parents. Frequently children agree to come under probationary supervision and are subject to the same rules and regulations as children officially placed on probation. When damages are involved, they are usually paid voluntarily. If, during the hearing, some problem requiring special attention is found to exist, the case may be referred to other agencies or institutions coöperating with the court for adjustment or for follow-up work.

In some courts, more or less complete investigations are made in cases dealt with informally. These investigations generally include not more than office or home interviews with the child's parents and complainants.

c. *Extent of Informal Adjustment*

The extent to which cases are adjusted without formal court action depends largely upon the policy of individual courts, unofficial handling of cases by police departments, the preventive work of other social agencies in the community, and the differences in age limit under which the court has jurisdiction. These differences, together with those in statistical methods, make it difficult to compare the statistics of one court with those of another. Nevertheless, data compiled by the National Probation Association from forty-five cities of over 100,000 population do indicate that from 50 to 75 per cent of all the cases handled by the juvenile courts in these cities are of this character.[1] In the juvenile court of Denver the delinquency cases adjusted informally run as high as 90 per cent.[2] In the domestic relations court of Cincinnati, juvenile division, 90 per cent of complaints in boys' cases and 73 per cent in girls' cases were dealt with by the probation staff without a court hearing.[3] Cases so handled are probably not less than half of the cases brought before all juvenile courts.

In some courts the percentage of boys' cases so adjusted may be higher than the percentage of girls' cases. This fact may be due chiefly to local conditions; for example, greater attention may be paid to preventive work among girls by police departments or social agencies. As a general rule, the lowest percentage of informal cases is the highest age group. It means that the largest percentage of cases informally adjusted is among children under fourteen or fifteen years of age. The high percentage of cases adjusted informally usually includes such cases as those of malicious mischief, disorderly conduct, vagrancy, running away, gambling, and violations of city ordinances. Cases of incorrigibility, waywardness, and truancy rank next. Theft and sex delinquency cases so adjusted are comparatively infrequent.[4] Of course, the extent of informal adjustment depends not so much upon the kind of offense as upon the character of the offender.

d. *The Future of the Practice*

Opinions differ as to the desirability of informal adjustment of cases. Some authorities believe that cases should be adjusted without formal action whenever feasible. The advantages claimed for informal adjustment of cases are that the method avoids the detrimental elements of court hearings and the stigma of adjudication of delinquency and, at the same time, results in economy of the time and effort of the judge and probation officers and enables the court to concentrate on the more serious cases. It is also claimed that, in certain cases, better results are more likely to be obtained through voluntary and informal treatment than through the regular channels, and that the method is in harmony with the fundamental principles of the juvenile court, for only the child's needs and not the nature of the offense determine the action to be taken.

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[1] T. D. Eliot, "The Unofficial Treatment of Children Quasi-delinquent," *Proc. Natl. Probation Assoc.*, 1922, pp. 86-102.

[2] Lindsey, *Twenty-Five Years of the Juvenile and Family Court of Denver*, p. 49.

[3] C. L. Chute, "Juvenile Probation," *Annals Amer. Acad.* 105: 224, January, 1923.

[4] *Cf.* Lenroot and Lundberg, *op. cit.*, pp. 114-118.

On the other hand, other authorities believe that the juvenile court should not undertake to adjust cases informally. They argue that such work will interfere with the official duties of the court, lower its efficiency by taking such additional work, and weaken the authority in formal cases, or that it will be done in a haphazard and unscientific fashion and so fail to reach underlying problems that may be serious, or that it will discourage the development of resources for prevention of delinquency by schools and private agencies.[1] They believe that the juvenile court should deal only with cases calling for force and the use of public funds and should turn over to public schools or educational system or special departments under the supervision of school authorities cases that do not require formal court action.[2]

There is no doubt that too general use of the unofficial method, if based on inadequate knowledge, may result in failure to take effective action in the early stages of maladjustments which will perhaps become serious. A danger may also lie in the fact that the court officials are likely to regard this work as less important, although, as a matter of fact, it is as important as the official work, differing only in origin. As a general principle, however, this practice is to be commended and, whenever advisable, it should be followed, especially if there is an efficient staff of trained probation officers who should investigate and supervise the unofficial cases as thoroughly as the needs demand, just as in a court case. The development of the practice is but another step in socializing the juvenile-court procedure. In this way the preventive work can be carried on by trained probation officers, while the records in such cases do not constitute a part of the official records of the court, unless the work fails. Undoubtedly, schools and private agencies can settle many of the so-called quasi-delinquent cases without recourse to court, but unless they are socialized and well-equipped to take adequate and permanent responsibility, the juvenile court will remain, at least for some time to come, the chief agency for settling cases out of court. Even when these agencies become able to assume this responsibility, there will still be a large class of children who are out of their control and who cannot be reached by them, but who need no formal court action and can best be handled informally.

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[1] *Cf.* Lenroot and Lundberg, *op. cit.*, pp. 121-122.

[2] See *infra*, p. 212 *et seq.*

As the bulk of informal or unofficial treatment of cases is increasing, and as the work is likely to remain a permanent feature of juvenile-court procedure, the methods of the work should be carefully standardized. Standards and record systems are just as essential to the unofficial cases as to the official.[1]

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[1] For opinions and practices regarding informal adjustment of cases see, besides authorities cited above, T. D. Eliot, "The Back-to-the-School Movement—the Unofficial Treatment of Pre-delinquent Children," *Jour. Delinq.*, 7: 334-349, November, 1922; Lenroot and Lundberg, *op. cit.*, pp. 109-122; Jeter, *op. cit.*, pp. 42-46; Belden, *op. cit.*, pp. 42-43; H. R. Archbald, "Preventive and Informal Treatment of Delinquents in the Courts," *Proc. Natl. Probation Assoc.*, 1924, pp. 320-323. *Cf.* also articles cited *infra*, pp. 213, 216.

Chapter VII

COURT HEARINGS

1. *NATURE OF HEARINGS*

AFTER the completion of the preliminary steps in court procedure—the making of complaint, the filing of petition, the issuance of summons or warrant, the taking of the child into custody, the study of the case and the child, and the failure or inadvisability of informal adjustment—the case must be formally heard by the court.

In order to secure the utmost possible simplicity, it has been found necessary in the hearing of children's cases to discard technicalities of procedure which are not absolutely necessary and which tend to confuse a child's mind. The juvenile-court statutes generally provide that the hearings are to be informal or summary in nature and conducted under such rules as the court may prescribe. Formal criminal procedure is inconsistent with the theory underlying the juvenile-court legislation, which treats the child not as a criminal but as a delinquent, "misdirected and misguided and needing aid, encouragement, help, and assistance," as it has been expressed in many statutes. It is important that all means should be taken to prevent the child and his parents from forming the conception that the child is being tried for a crime. The primary function of the judge is not to prove that the child is or is not guilty of an offense but to get from the child the truth, to weigh the results of the social, physical, and mental findings, to determine what the needs of the child are, and then to decide upon the treatment. To this end the proceedings of the court must be simple, summary, or informal without strict adherence to legal formalities. On the other hand, they are by no means arbitrary, irregular, undignified or without regard for law. Technicalities of procedure should be disregarded, but rules protecting substantial rights, such as regular process of law provided to produce evidence and to aid courts in testing and weighing it, will not be scrapped because the proceeding is a summary one.[1] Thus, a tremendous responsibility is imposed upon the juvenile judge. In the words of Judge Charles W. Hoffman, "that the hearing has been legally conducted and no law violated is no excuse if the child is finally lost." [1]

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[1] In re Hill, 247 Pac. 591 (Cal. App. 1926).

In conducting hearings in juvenile cases, some rules are generally recognized. Although the proceedings are informal in nature, it is advisable that both child and parent in appearing before the court should be impressed by the dignity of proceedings. The hearing should not be in the nature of a cross-examination but should be conducted in a sincere, friendly, conversational tone in order to disarm the child of any fears, to win his confidence, and to secure the whole truth from him. No attempt should be made to induce the child to incriminate himself, because the object is his welfare. None of the questions should be designed to trap him. The judge's manner should be friendly but never to the point of seeming to condone the offense. When occasion calls for it, he should be very stern and severe.

2. *COURT ROOM*

The close relation of the probation offices and detention homes to all the court's work require that they should be as near the court room as possible. In some places they are situated in one building—a plan much to be commended.

The essentials of a court-room atmosphere are simplicity and sincerity together with dignity. The establishment of a close personal relation between the judge and the child is not possible when the old type of a court room with its ordinary trappings is still used. Sound procedure demands the abolition of the conventional bench from which the robed judge looks down upon the child, and *in lieu* thereof the use of a simple table so arranged as to permit the judge to come into close personal touch with the child. When it can lawfully be done, a special room or the judge's chambers, usually a small room, take the place of the larger court room, and here in the presence of all the parties concerned, the story of the child's delinquency or other troubles is told. As far as possible, uniformed officers should be excluded from the court room. The presence of uniformed police, the legal jargon of the charge, the plea—all these tend to destroy feelings of confidence. In short, the juvenile-court room should be brought into perfect harmony with the principles and the objects which the juvenile-court legislation implies.

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[1] C. W. Hoffman, "Saving the Child," *Survey*, 45: 704-705, February 12, 1921.

Adequate provision should be made for children awaiting hearing. They should be protected from publicity and given necessary supervision. Except in the courts in which the children are in the court room while awaiting their turns, which is decidedly an objectionable practice, the general plan is to have the children, their parents, and witnesses in a general waiting room until their cases are called. When the court and the detention home are in the same building, it is possible to have children who are in detention wait in the detention home. Separation of the children while they are waiting to be called, though desirable, is not necessary where adequate supervision over them is maintained or when cases are heard at different times according to sexes and types of cases.

3. *FREQUENCY OF HEARINGS*

The more frequent the hearings, the shorter will be the detention periods. It is desirable that the hearing should be held as soon as proper notice to parents or persons having custody of children can be given, if possible within forty-eight hours.[1] In courts where there are full-time judges, cases may be heard, as a matter of fact, at any time. This is impossible where the hearings are held only one or two days a week. Regular daily hearings or hearings at least every other day is a much more just and satisfactory plan than hearings held once a week or on irregular days. Of course, in courts having a small number of cases, they should be heard as they come up.

In most courts there are special days or a part of a day given to hearing delinquency cases and cases of neglect and dependency in order to insure the complete segregation of different classes of cases, but in some courts all children's cases are heard as they happen to come up without separation according to types. Hearings in adult cases and mothers' pension cases are usually separate from children's cases. The separation of hearings in adult and children's cases is highly desirable, but this is not essential in children's cases if proper provisions are made for those awaiting hearing.

4. *PRIVACY OF HEARINGS*

In modern juvenile-court procedure of the best type, children are given the advantage not only of separate hearings but also of hearings from which persons not having a legitimate interest are excluded. The juvenile-court law usually provides that the public may be excluded from the court room; that it is unlawful to publish any case in the newspapers or to take the photograph of any child in court; that the court record may be withheld from indiscriminate public inspection; and that the name of the child must not be given in the annual report of the court. These provisions are prompted by a tender solicitude to save the child and his parents from embarrassment and the taint of any public stigma, and by a belief that a private hearing affords much more favorable conditions than a public hearing for finding out the facts and causes of the child's troubles and for determining the proper remedy.

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[1] Appendix I, p. 226.

The exclusion of the public from hearings of children's cases is generally recognized as a fundamental feature of the juvenile-court procedure. Except the judge, the clerk, the chief probation officer, and some other members of the staff, only those directly concerned in each case—the child, his parents, the complainant, the witnesses—are present at the hearing. In some of the most advanced courts, witnesses usually remain outside the court room except when testifying. Representatives of social agencies, students and others who have a general interest in the problems of the court are usually admitted. It is to the advantage of the court to permit acquaintance with its work that will win the understanding and coöperation of the community and free the court from the suspicious criticism of holding "star chamber sessions." Undue privacy may be as injurious to the work of the court as undue publicity. Privacy should not appear to be secrecy.

Public hearing cannot be claimed as a constitutional right. There is no constitutional right to a public hearing on the part of the child when the case is not a prosecution for crime, especially when the issue is dependency or neglect or in matters of guardianship. Nor is there any right on the part of the public to attend a court hearing in which it has no direct interest. Even in an ordinary court much discretion is allowed the judge in the matter of excluding curious spectators from the court proceedings, in the interest of public decency or good order.

When the law does not provide for the exclusion of the public from the court room, undue publicity of every kind may practically be avoided through some informal arrangement. Hearings may be held in the judge's chambers for the purpose of securing greater privacy; the court room may be made so small as to admit very few persons other than those concerned in a given case; or the judge's bench may be so arranged that the proceedings cannot be overheard except in the front of the room. Thus, what is nominally a public hearing consequently becomes one which is in practice largely private. Many courts have also done away entirely with newspaper publicity of cases. Managing editors of newspapers, whenever attention is called to the evils which result from publicity of children's misfortunes, both to the child himself and to the public, willingly coöperate with the juvenile court in most instances.

Privacy of hearing also requires that one child should not be permitted to hear the story of another. Accordingly, no child should be brought in until the completion of the preceding case and he should not be allowed to remain in the room during the cases following his own. Children should not be permitted to remain at the hearing of neglect or dependency cases except for the time required for identification. Nor should children be permitted in the court room in adult cases except for the purpose of testifying. In some cases children and parents should be questioned alone, and separately, in order to get at essential facts, when it seems unwise to question them in the presence of each other, as when testimony is being taken of the immorality of children or parents. Paternity cases and sex delinquency cases should be heard as privately as possible. When girls' cases are heard by women referees, such hearings are usually much more private than are the boys' hearings, and the hearings are more in the nature of a dignified family conference than a court trial.

5. *DELINQUENCY HEARINGS*

That the juvenile-court procedure is simple, summary, or informal, without regard to unnecessary legal formalities, does by no means imply that it can eliminate the necessity for determining what the child has done according to the rules of evidence. Except in cases involving a charge that the child is "ungovernable" or "beyond the control of his parents," petitions in delinquency cases must allege as evidence that the child comes within the definition of the juvenile-court law. It is necessary to prove a specific violation of the law, even of the "blanket" provisions; that is, it must be proved and substantiated that the child did violate a specific state law or local ordinance or is in a specific way growing up into a career of idleness and crime. This specific proof is the basis of the adjudication of the child as a delinquent or a ward of the court, and of the whole treatment that follows. If it is found that the child has not committed the act alleged in the petition, the petition must be dismissed without prejudice, even though the investigation shows the child's habitual conduct to be such that the court's protection is required.

The establishment of the facts of the offense constitutes the least difficult part of the hearing, for in most cases children readily admit that they have committed the offense. The more important and more difficult task of the judge is to determine, in the light of the social, physical, and mental findings, what the child needs and to prescribe what treatment is best adapted to his needs. The best way to get the truth is to let the child do the talking. Let him relate the story in his own way, for a question is a challenge which causes him to take the attitude of defense.

Great variety in methods of conducting hearings is found in different courts, depending largely upon whether the court operates under chancery or quasi-criminal jurisdiction. Even among the courts operating under the same kind of jurisdiction, the hearing in one court may be much less formal than in another. Under chancery practice much discretion is left to the judge. The child, the parents, and the witnesses are usually seated during the hearing. The officer who investigates the case usually attends the hearing and states the facts of the case. Whether he is present or represented by another officer, his complete written report of the investigation should be in the hands of the judge at the time of the hearing. If present, he should appear not as a hostile witness but as an adviser and consulting expert who gives information and suggestions, when requested to do so, to supplement his written report. If the police officer or other person who made the arrest of the child is present at all, he is present only while testifying. A court reporter is occasionally present in serious cases that are likely to be contested. Usually no charge is read to the child and no plea of guilty or not guilty is required. Though the judge generally has the power to hear the testimony of children and witnesses under oath, such oath is usually not administered except in seriously contested cases. In well-equipped juvenile courts representing procedure under quasi-criminal jurisdiction, delinquency cases are heard almost as privately and as informally as in courts operating under chancery practice. Certain legal formalities must be conformed to, however, as far as possible; for example, the plea of guilty or not guilty, the putting of the parties under oath, and the informing of the child and his parents of their rights of appeal.

Girls' cases are usually heard by women referees, if there are any. If no women referees are provided, other officers of the court, such as the woman superintendent of the detention home and the woman probation officer, are often called upon by the judge to assist when it is necessary to secure from the girl details which she would be reluctant to state to a man. Hearings in girls' cases are usually very informal and in some of the most advanced courts only women officers are present. The law in some states, as in Alabama, California, Oregon, and Rhode Island, requires that, as far as possible, no case of a girl should be heard without the presence of a woman in the court room, who, in practice, may be a referee, a woman probation officer or some other well-equipped woman in the community.

6. *DEPENDENCY AND NEGLECT HEARINGS*

In most courts, hearings in dependency and neglect cases, as well as in all cases involving children, such as cases of illegitimacy, adoption, and change of custody, do not differ materially from delinquency hearings. As in delinquency hearings, the court must satisfy itself that the allegations in the petitions are true and that the conditions specified come within the definition of the juvenile-court law. Although most of these cases are uncontested, evidence is as important in these cases as in delinquency cases.

In general, the hearings in dependency and neglect cases are less formal than those in delinquency cases. In more advanced courts children in these cases are not always required to be present in the court room except for the purpose of identification or when their physical condition is to be introduced as evidence. The real issue in most cases is with their parents or legal guardians who are really on trial.

In some places dependency and neglect cases are often investigated and presented by private child-caring agencies, who, to some extent, take the place of probation officers in the matter. As these hearings are likely to be continued for some time, the children are often placed in the custody of a private agency until the hearing is completed.

Adoption cases have been frequently decided on the appearance or statements of the adopting parents, with no investigation of the circumstances surrounding the adoption and of the prospective foster home, and with tragic consequences.

Illegitimacy cases or dependency cases involving children born out of wedlock are generally handled in a special manner. The procedure is usually for the purpose of preparing the way for adoption, if the interest of the child can best be served in this way.

The hearings in mothers' pension cases are brief and informal. As these cases are generally investigated and presented by private agencies and passed upon by specially authorized advisory committees, bureaus, or boards, the judge usually makes disposition of the case according to their recommendations. Mothers and children may not be required to be present in the court room if there is no point of controversy.

7. *HEARINGS IN ADULT CASES*

While in children's cases the proceeding is chancery, and not criminal in nature, the proceeding in adult cases dealt with by the juvenile court, such as cases of contributing to delinquency or dependency, non-support and desertion, the determination of the paternity of children born out of wedlock, and offenses against or involving children, is generally criminal, or at least quasi-criminal, in nature. The proceedings and disposition in adult cases are generally governed by separate laws dealing with such matters. In these cases the juvenile court usually acts as a criminal court and the hearings are conducted with almost as much formality as they are in ordinary courts, especially when the act or omission is made a misdemeanor. The juvenile court has no right to deny to the defendant constitutional rights that the law and constitution throw around him. The prosecution is usually in the hands of prosecuting attorneys. The evidence must be of a kind that would be admitted in a regular criminal court. Except in special cases, hearings are usually public. When adult cases are heard under chancery practice—this can lawfully be done in a few states, and is adopted in practice by some courts—the proceedings are, of course, much in the nature of those in children's cases.

8. *JURY TRIAL*

Trial by jury in children's cases has been usually provided in the early juvenile-court laws in order to avoid constitutional difficulties and as a concession to conservative legal tradition. Since the constitutionality of statutes which do not provide for a jury trial in children's cases has been almost universally upheld, [1] no such provision is necessary on constitutional grounds. Nevertheless, a number of states have considered it necessary to preserve the constitutional rights, if not of the child, at least of the parent. The statutes usually provide that the child, parent or any person interested may demand trial by a jury of six or twelve [2] or that the court may, on its own motion, order it. Some states provide for a jury trial only in cases of violation of law, if the offense is one for which a jury trial may be legally demanded. In some quasi-criminal juvenile courts, as that in the District of Columbia, the child is entitled to a jury trial unless it is waived in open court. In the Illinois juvenile-court law no jury trial is provided for delinquency cases, but a trial by jury of six is provided for commitments to manual-training and industrial schools. This provision is made mainly because of the historical reason, i. e., jury trial for commitments to institutions existed in Illinois before 1899. The service of the jury is now, however, largely perfunctory, for, as a rule, the jury accepts the decision of the judge.

The wisdom of the provision for a jury trial has been seriously questioned. The authorities are clear that a jury trial is both useless and injurious and is entirely inconsistent with both the law and the theory upon which juvenile courts rest. It is useless because, although it is generally allowed, it is seldom claimed and still more seldom ordered by the court. It is thought that the social investigation and physical and mental examinations are far superior to the judgment of the jury. It is injurious because the employment of a jury increases the cost of administration; it invites publicity; it involves a formal criminal procedure; and it seriously interferes with the moral and educational influence of the judge and other officers of the court. By retaining his control over the disposition of the case, the judge can more effectively facilitate constructive treatment.

9. *RIGHT TO COUNSEL*

Representation by counsel or attorneys in a criminal proceeding is a constitutional right. In non-criminal proceedings legal rights are not necessarily violated by the elimination of attorneys. The court is the defender as well as corrector of the child. It is thought that the appearance of attorneys usually complicates the proceedings and serves neither the interests of the child nor the interests of justice. The better juvenile courts have been successful in discouraging the appearance of attorneys in most cases.

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[1] *Supra*, p.10-11

[2] A Michigan statute providing for a trial by jury of six instead of twelve was held unconstitutional in *Robison* v. *Wayne Circuit Judges*, 151 Mich. 315 (1908).

On the other hand, when a lawyer does appear, which is usually in the interests of the parents, it is possible in most cases to enlist his coöperation to protect the real welfare of the child. He should not appear to plead a case as if it were an ordinary criminal trial. He should assist the court in many ways toward the real salvation of the child. It is believed that the absence of conflicting claims of personal rights in most cases makes this the more practicable. Dr. Van Waters stated her opinion on this question as follows:

> Representation of children by attorneys is no barrier to socialization, if attorneys are made to understand it is not a contest of rights, nor conflict between child and adult in which the court serves as arbiter. A socially-minded lawyer who has rid himself of prejudices and preconceptions of other courts can be of service both to child and juvenile judge.[1]

10. *RULES OF EVIDENCE*

There are few legislative rules of evidence peculiar to juvenile courts. In one state, the law even provides that the "hearing, trial, and determination shall be without regard . . . to rules of evidence."[2] In general, customary rules of evidence should be followed in juvenile courts. The child can be found delinquent or dependent and the parents deprived of the child's custody only according to rules of evidence. In ascertaining facts the judge should always carefully use his discretionary power to admit or exclude evidence so that the juvenile court may not be reputed as absolutely tyrannical. "No judge on any bench," as Judge Waite observed, "has need to be more thoroughly grounded in the principles of evidence and more constantly mindful of them than the judge of a juvenile court."[3]

On the other hand, all legal technicalities relating to rules of evidence that prevail in a criminal proceeding should be discarded in the juvenile court. In a criminal proceeding, the proof must be beyond reasonable doubt but the proof under civil or chancery jurisdiction may be preponderance of evidence.[1] The juvenile court does not protect the child by discharging him merely because there is no technical legal evidence when the weight of evidence is preponderant that the child comes within the provision of the law. This principle is especially applicable to cases of dependency and neglect.

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[1] Van Waters, *Youth in Conflict*, p. 166.

[2] Laws of Maryland, 1916, ch. 326, sec. 2.

[3] U. S. Children's Bureau, "Proceedings of the Conference on Juvenile-Court Standards," *Pub. 97*, p. 59.

Since the object of the juvenile court is to determine the truth and to understand the child, the strict application of rules of evidence that exclude certain kinds of truth from the ear of the court as improper is certainly out of place in the juvenile court. The judge should not reject as immaterial any fact that throws light on the child's character and condition. Dr. Van Waters summed up the principle in the following words:

> In a socialized procedure no useful evidence should be excluded from the court. Each relevant fact should be admissible, but we should adhere closely to the body of the rules of evidence that applies a test of truth. Hearsay, incompetent evidence, opinion, gossip, bias, prejudice, trends of hostile neighborhood feeling—all these sources of error should be ruled out of the juvenile court as rigidly as from any other court. . . . The test of truth in the juvenile court should be definite, scientific, carefully scrutinized."[2]

Swearing of parents and witnesses is usually a discretionary act on the part of the judge. It seems that no harm would be done if all parties concerned are sworn, especially in serious cases. The competence of a child to testify is to be determined by the judge. Except in courts operating under quasi-criminal jurisdiction, children are rarely put under oath. The methods of taking testimony and to what extent the judge shall interrogate witnesses are left to his discretion.

11. *RIGHT OF APPEAL*

In most states special provisions are made in the law for appeals from the decisions of the juvenile court. When no such provision exists, it has been held by a number of courts that since proceedings under juvenile-court laws are purely special and statutory no appeal lies unless the right is given by the state in express words or by necessary implication.[3]

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[1] *Cf. Ibid.*, p. 59; State *v.* Superior Court, 345 Pac. 409 (Wash. 1926).

[2] "Proceedings of the Conference on Juvenile-court Standards," p. 67.

[3] Commonwealth *v.* Yungblut, 159 Ky. 87 (1914); People *v.* Piccolo, 275 Ill. 453 (1916).

On the other hand, a few courts have held that when the law contains no provision governing appeals, they may be taken under the usual procedure in cases of felony or misdemeanor as the case may appear.[1] A writ of *certiorari* may be invoked when no appeal or writ of error lies.[2]

When a parent is improperly deprived of the custody of his children a writ of *habeas corpus* will lie,[3] but ordinarily it is not allowable as a substitute for an appeal from judgment of juvenile court, unless it is so provided in the statute.[4] It is not the purpose of the juvenile-court law to lay the foundation for additional technical objections to be resorted to after conviction of crime in the effort to secure release on *habeas corpus*.[5] The writ is used only when the judgment is absolutely void, not only voidable.[6]

In hearing an appeal, the court may affirm that part of the order which declares the child delinquent or dependent and reverse that part which commits the child to an institution, because what the child is and whether or not the parents are fit to have the custody of their child are two different questions.[7]

Failure to make findings of facts upon which the court may exercise its jurisdiction as foundation for judgment is usually held to require reversal.[8] As the juvenile court is a statutory court, its jurisdiction cannot be presumed as is the case in common law or in chancery. It is not enough to show that evidence of the jurisdictional facts in the proceedings was offered if the record does not set this forth.[9] Facts must be stated and not mere conclusions, and facts, if proven, should be sufficient to establish the delinquency or dependency of the child. Jurisdictional facts are facts that establish the delinquency or dependency on which court's jurisdiction rests, but they are not particulars of charge.[10]

The value of the right of appeal in juvenile courts has often been questioned. Many authorities believe that it is inconsistent with the welfare of the child. In Massachusetts the judge is required by law to advise the child or parent of his right of appeal, and appeals are often taken in the most serious cases, especially in the case in which the child has been ordered to an institution. The result is that cases were often *nol-prossed* by the district attorney, a practice which was forbidden by a law passed in 1916. If the case does reach the superior court, the matter does not receive the careful consideration which the juvenile court is prepared to give it. The decision of the juvenile court is often changed from the commitment to probation, not because its decision has any better basis than that of the juvenile court, but because the district attorney, who is overloaded with work, generally agrees to such a reduction if the offense or the amount of damages seem to him to be trivial. This fact, in turn, invites more appeals from the decisions of the juvenile court and the knowledge on the part of the juvenile-court judge that an appeal may be taken sometimes influences him against his better judgment in the disposition of cases.[1]

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[1] Ex parte Brooks, 85 Tex. Cr. Rep. 252 (1919).
[2] State *v.* Bockman, 139 Tenn. 422 (1918).
[3] People *v.* New York Nursery and Child's Hospital, 230 N. Y. 119 (1920).
[4] Stoker *v.* Gowans, 45 Utah 556 (1915).
[5] In re Wolff, 183 Cal. 602 (1920).
[6] McDonald *v.* Short, 190 Ind. 338 (1921).
[7] Bedford *v.* Anderson, 56 Utah 287 (1920).
[8] In re Hill, 247 Pac. 591 (Cal. App. 1926).
[9] Kelsey *v.* Carroll, 22 Wyo. 85 (1913).
[10] Hills *v.* Pierce, 113 Ore. 386 (1924).

Unquestionably the right of appeal is open to objection, but there is more objection to the arbitrary action of a judge not subject to review by appellate courts. The right of appeal is not only in the interest of the child and the parent, but it makes for greater care and more sympathetic consideration of the case on the part of the judge. It should be permitted in all cases in which the custody of the child is actually disturbed, at least on the question of law. When an appeal is taken, it should not operate to suspend the order of the juvenile court. If the order is affirmed or modified, the child should remain under the jurisdiction of the juvenile court, as if no appeal had been taken.[2]

12. *USE OF EVIDENCE IN OTHER TRIALS*

The principles that adjudication upon the status of a child should not operate to impose any of the civil disabilities ordinarily imposed by conviction and that evidence secured in the juvenile court should not be used as the basis of other legal action are recognized in the majority of the juvenile-court laws.

According to this principle, the New Jersey court[3] held that evidence that a boy was adjudicated delinquent by the juvenile court was inadmissible in an action to recover a reward for information leading to the conviction of a person guilty of stealing, because the introduction of that evidence would disgrace a child whom the juvenile-court law intends to protect. There is no doubt as to the constitutional power of a legislature to exclude certain kinds of proof in the determination of an issue of fact, when there is a reasonable justification for the exclusion. Thus, the same court adds:

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[1] *Cf.* Roy M. Cushman, *Harvey H. Baker, Upbuilder of the Juvenile Court,* pp. 59-62.

[2] *In lieu* of appeal Michigan provides for a rehearing in the juvenile court, at which the first judge is disqualified from sitting.

[3] Kozler *v.* N. Y. Telephone Co., 93 N. J. 279 (1919).

> Clearly the legislature, in creating a new tribunal like the court for the trial of juvenile offenders, may prescribe what record it shall keep, or whether it shall keep any arecord at all. . . . We see no reason why the legislature may not enact that it is against public policy to hold over a young person *in terrorem*, perhaps for life, a conviction for some youthful transgression. If it may pass the act of general amnesty, it may surely pass an act of amnesty to juvenile offenders.

Chapter VIII

METHODS OF TREATMENT

1. *NATURE OF TREATMENT*

THE real test of the value of the juvenile court lies in the character of legal treatment in the form of court orders or judgments, and social treatment in the form of constructive work with the child or the family—treatment that it provides after the hearing of the facts. The juvenile court prescribes methods of treatment, not according to any set forms, but according to individual needs of the child as revealed by social, physical, and mental diagnoses regarding the child himself, his environment, and the essential causal factors responsible for his behavior, and according to a constructive plan arrived at by conference of the judge, probation officer, physician, psychologists, and the psychiatrist. The essential consideration in the disposition of cases and the treatment that follows is the welfare of the child. This is the most important task of the court, for here the court prescribes the remedial measures for the child and administers them either by its own probation officers or through some other agents authorized by it or provided by law. The existence of the juvenile court is to be justified not by any theory but by its intelligent administration of treatment and its actual success in saving the child.

The form of a court order or judgment in children's cases and the subsequent treatment of the case vary with the classes of cases and individual needs, according to the legal restrictions, the availability of facilities, the proportion of cases informally adjusted, and other circumstances.

There are, in substance, four ways in which a juvenile-court judge may dispose of a children's case and administer treatment: (1) dismissal, (2) probation, (3) home placement, and (4) commitment, that is, he may discharge the child, put him on probation, place him in a foster-family home, or commit him to an institution. An order of dismissal may be made upon a hearing or after "continuance," unaccompanied by probation order. In delinquency cases, orders of dismissal and probation may be accompanied by orders for restitution or reparation. In some instances, fines or other forms of money penalties are imposed upon children. Other orders may accompany one of the principal orders, especially the probation order, but these are, in reality, details of that order rather than distinct orders.

An order of the juvenile court, unlike that of a criminal court, may usually be vacated or set aside or modified as the facts of the case and the welfare of the child may, from time to time, require.

It is required by most statutes that the religious faith of the child or his parent or parents should be respected as far as possible in putting the child on probation, in placing him in a family home, or in committing him to an agency or institution. This principle is generally observed even without legal provision.

In children's cases corporal punishment in the form of whipping undoubtedly would meet the disapproval of all the intelligent advocates of the juvenile court. This method of disposition is believed to be as inhumane as it is unscientific. The British Children's Act of 1908 permitted this form of punishment. A few of the juvenile courts in this country occasionally use it without legal sanction.[1] It is not a treatment that is administered by the court itself. It usually takes the form of an instruction to the parents to whip the children as a method of exercising their parental function of discipline.

There are backward communities where the courts cannot get away from the old punitive idea. Contrary to the purpose of the juvenile-court movement, they still use, in children's cases, jail sentence, commitment to state reformatory, or other purely penal methods. In most cases they are ordinary criminal courts hearing children's cases or they are juvenile courts in name but criminal courts in fact.[2] It should be remembered, however, that cases of serious offenses committed by children are often excluded from the jurisdiction of the juvenile court or the juvenile court has only concurrent jurisdiction over them with other criminal courts.

Looking at the methods of disposition of children's cases as a whole, only probation, placing in family homes, and commitment to institutions point to the constructive work of the juvenile court. Other methods of disposition, although sometimes necessary, either do not have any positive value, or are really incidents of probation or commitment or they are so seldom used that they are almost negligible. Of course, there is preference of one form of order and treatment to another but, at all events, it should be given as the most logical means of helping the individual child. It should be a matter of the individual and his social needs rather than the kind of offense and punishment for it.

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[1] *Cf.* Belden, *op. cit.*, p. 42, and the reports of the Juvenile and Domestic Relations Court of Richmond for 1924, p. 14, for 1925, p. 21.

[2] Belden, *op. cit.*, p. 42. According to information obtained by the United States Bureau of the Census in 1923, 945 juvenile delinquents under eighteen years of age were committed to prisons and reformatories during the first six months of 1923 and 2,445 to jails and workhouses, not including those being detained pending trial or disposition of their cases: See United States Bureau of Census, "Census of Prisoners: 1923," (preliminary report), p 6.

To here

2. *DISMISSAL*

The dismissal of cases is chiefly affected by the proportion of cases adjusted informally. The more general the use of the informal adjustment of cases, the less will be the dismissal of formal cases. A case is usually dismissed if the evidence is not sufficient or, as in a delinquency case, if the offense is not proved or is of a too trivial nature, especially in cases of first offenders, or if the age of the child or other mitigating circumstances make any court action inadvisable or impracticable. A case may be dismissed outright or with a reprimand and warning from the judge.

3. *CONTINUANCE*

When conditions do not seem to warrant probation and yet the judge is unwilling to dismiss the case, a case not dismissed immediately and not put on probation may be continued indefinitely or for a definite period. The case is still nominally under the court's jurisdiction and the child is in the legal custody of the court, awaiting a full hearing. The case may be dismissed either at a definite or at an indefinite time and may be brought again into the court without the necessity of filing a new petition.

An order of continuance may be useful for various purposes. A case may be continued in order to collect fines, costs, restitution, or reparation, to secure more information about the child, to give opportunity for physical and mental examinations, to get in touch with relatives, or to make arrangements for the return of a runaway child to his parents. The chief importance of the use of an order of continuance for a short period lies, however, in the fact that it avoids making the case a matter of formal entry and thus saves the child from the stigma of a court record and, at the same time, it gives the court opportunity to apply the remedy of proper environment and supervision. During this period the child may improve in conduct or the home conditions may be so changed as to render a final order unnecessary.

Some courts, as that of San Francisco, have developed the use of short-term continuances with a certain amount of supervision as a method of utilizing probation for those children who give promise of benefiting by it. Continuances with supervision are not used, of course, when probation seems from the beginning to be the logical order for the court to make. The effect of the order for the continuance with supervision seems to be practically that of probation for a short period in which the child is placed by the court under conditions which promise a good chance for recovery.[1]

4. *RESTITUTION AND REPARATION*

Restitution for property taken or reparation for damage done is occasionally ordered by juvenile courts.[2] This is expressly provided for in some state laws, although many courts use this order without legal sanction, and it may or may not be accompanied by a probation order.

The value of restitution and reparation does not lie so much in the satisfaction of the complaint as in the educational effect on the child. The Committee on Juvenile-Court Standards, while strongly objecting to the practice of imposing fines in children's cases, believes that restitution and reparation may be required where they seem to have disciplinary value or to instill respect for property rights.[3] For this reason, if the child is working, he is usually expected to make restitution and reparation out of his own earnings.

5. *MONEY PENALTIES*

Most authorities believe that fines and other forms of money penalties are relics of the criminal law and are inconsistent with the real aim of the juvenile-court legislation. Since the purpose of the court action is protective rather than penal, purely punitive dispositions should be done away with in children's cases. A Michigan act which authorized the juvenile court founded upon the chancery idea to impose a fine was declared unconstitutional.[1] Nevertheless, in some states the courts may still legally use this form of punishment. In others it is occasionally used even without express legislative sanction. Miss Belden found, in 1918, that some courts in thirty-eight states used this method to dispose of cases.[2]

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[1] *Cf.* Katharine F. Lenroot and Emma O. Lundberg, "Juvenile Courts at Work," U. S. Children's Bureau, *Pub. 141*, p. 142.

[2] For example, the Richmond Juvenile and Domestic Relations Court collected $2,148.26 in restitution and reparation in 1925. See *Report of the Court*, 1925, p. 24.

[3] Appendix I, p. 228.

In most cases, money penalties take the form of fines. Some courts make the use of expedients comparable to fines, such as the assessment of costs of proceedings, money security for good behavior, and "atonement" for the wrong done. In general, in children's cases, there is little disciplinary value from money penalties. But if we are not too sentimental, they may legitimately and effectively be imposed in certain types of cases. This is especially true in traffic cases, cases of violating a peddling ordinance, and other cases involving violation of local ordinances, when these do not involve moral turpitude and when a discharge and probation are equally unsuitable. In cases like these, money penalties, if intelligently imposed, have some effect in making the child and his parents realize their responsibility for the violation of the law or ordinance. Of course, the imposition of money penalties is justifiable only when the fine money can well be spared by the child or his parents.

6. *PROBATION*

a. *Philosophy of Probation*

Charles L. Chute, Secretary of the National Probation Association, gives us so clear and concise a statement of the meaning of juvenile probation that his words may well be quoted here in full:

> Probation, as it relates to children, may be defined as a system of treatment for the delinquent child or, in the case of the neglected or destitute child, for delinquent parents, by means of which the child and parents remain in their ordinary environment and to a great extent at liberty, but, throughout a probation period, subject to the watchful care and personal influence of the agent of the court known as the probation officer.[3]

The social aspect of probation is much more important than its legal aspect. From the purely legalistic point of view, probation is merely a definite order of the court suspending sentence and placing the child under the supervision of a probation officer in place of vindictive punishment or commitment to an institution. From the broader social point of view, however, probation is the entire system of the follow-up work for court cases. The term "probation" itself gives no clear and definite idea of what is done by way of treatment. It rather represents an occasion for the probationer to receive extraordinarily varied attention and constructive help from the probation officer. It involves or suggests an intimate personal relationship which deals with all the factors of a child's life. It covers the whole field of the social service work of the court with the child. It is an integral and vital part of the court's work and is usually regarded as the keystone which supports the arch of the juvenile court, for it deals with fundamental purposes and methods of the court itself.[1]

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[1] Robison *v.* Wayne Circuit Judges, 151 Mich. 315 (1908).

[2] Belden, *op. cit.*, p. 42.

[3] C. L. Chute, "Probation in Children's Courts," U. S. Children's Bureau, *Pub. 80*, p. 7.

Probation is essentially a human side of the court's work. Here the element of human nature in its psychological and social implications plays the central and important rôle. The practice of probation is preëminently a psychological practice and its success depends upon our knowledge of the human mind. The probation officer's approach to the child, his attitudes, and the building of a working relation between himself and the child must be based upon this psychological element. It is concerned not so much with life and property as with justice in human relationships. It is a process of reshaping and reconstructing attitudes and behavior in group life. It is an adjustment of human relationships—relationships to home, school, work, recreation, neighborhood, churches, clubs, settlements, and society at large. It is an instrument for bringing about a better relationship between the child and his environment through a careful study of the causes for his conduct and through a provision of the necessary means for dealing with these causes. It aims to develop personality in individuals with reference to their conduct or social status through right adjustments between them and their social environments. This is the essential philosophy on which probation rests. This phase of the court's work is much more important than its legal machinery. The main idea of our whole theme is that the purpose of the juvenile court is to save the child, but the vital question still remains: How can the child be saved? High-sounding principles, wise statutory provisions, progressive judicial pronouncement, efficient organization, elaborate procedure, perfect record systems, and right prescriptions of treatment—in which the child himself has too frequently been buried—will be useless and meaningless unless there is a final personal human touch, pointing the way to good habits and building up the character of the child.

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[1] *Cf. Ibid.*, p. 7.

Domination and emotionalism are two of the most harmful attitudes in probation work. The sound philosophy of probation requires that the problem of the child must be approached in an unbiased fashion and without the heavy hand of blind force. The probation officer must be objective and free from prejudice and emotional preferences. It is his task to get the facts, weigh them carefully, and, on the basis of these findings, institute the necessary measures for the correction of the individual. The success of probation depends upon the understanding of human beings in their relation to the outside world rather than upon any coercion or force. In probation, we must endeavor to wean the youngsters from a path of evil through sympathetic understanding and friendly guidance. This idea has been emphasized by Dr. Van Waters in speaking of force *versus* knowledge in probation work. She said:

> It takes unusual insight and imagination to realize human forces with which the probation officer deals. The probation officer has the two-fold task of discovering human forces and of directing them into the conquest of delinquency. Probation officers should have the requisite education, training, and experience. There is no excuse for their not knowing the elements of biology, psychology, sociology, and the facts of mental hygiene. They should be social physicians, and their attitude should be that of the social worker, he who builds up social relationships. They should have respect for the worth, dignity, and integrity of human personality. They should use *knowledge*, not *force*, in the solution of their problems. They should believe in miracles, those daily miracles of the reconstruction of broken human lives.[1]

As probation deals with human nature itself and its success depends upon insight of the psychological nature of human beings, and as the personal relationship established between the child or the family and the court or probation officers is of vital importance, no mechanical rules or techniques of probation can be laid down. Each individual child on probation has his individual characteristics and there are circumstances that make it necessary for the probation officer to use wide discretion in adapting his methods to the particular needs of the child. There can be no cut and dried rules about probation. The task requires constructive imagination and ingenuity on the part of the person who deals with the child. Nevertheless, as a result of long experience, probation becomes more and more scientific and some fundamental principles, rules, and methods are now being satisfactorily worked out and generally recognized with regard to methodology and technique in planning and administering probation as in any other case work. These rules and methods, laid down by the court, are usually supplemented by others developed by the probation officers.

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[1] Miriam Van Waters, "Forces *versus* Knowledge; Some of the Problems of Probation," *Proc. Natl. Probation Assoc.*, 1923, pp. 155-164.

b. *Extent to Which Probation Is Used*

The fundamental purpose of probation is to keep the child in his own home and in his own community in order to train him and to build up normal habits of life and to avoid the stigma that is always attached to commitment to institutions, except when adequate investigation of the home, the family conditions, and the social environment shows that it is not in the best interest of the child. Consequently, the suitability of probation in a particular case depends not so much upon the degree or type of the offense as upon the real character of the offending child and the conditions under which he lives. Here must be considered the probability of the child's becoming a law-abiding citizen on probation and afterward, and the consequences to the child and to the community of giving him an artificial life in some institution.

While probation is a valuable and humane method of treating juvenile delinquents, it cannot be used in all cases as a substitute for commitment to correctional institutions or for other forms of treatment and must not be granted indiscriminately even for all first offenders. It should not be used as an open door to relieve the court of serious situations or as the simplest method of letting the offender off. Probation is doomed if the court, the offender, and the public regard it as something amounting to a form of leniency or acquittal. It should be used by the courts only when a thorough preliminary study of the individual delinquent has shown that the seed of probation will fall on fertile soil; that is, when it has shown that certain characteristics can be effected through probation and that the offender is likely to benefit by proper supervision for a definite period of time. This standard is not always adhered to. While some judges select for probation only promising cases, others use probation for all cases in which no other disposition is immediately indicated.

The proportion of cases dismissed, put on probation, placed in family homes, and committed to institutions, is affected by the attitude of the judges, the amount of organization, the effectiveness of probation service, the availability of coöperating agencies, and the number of cases adjusted informally or continued without a probation order. The percentage of formal cases in which probation is ordered varies from court to court because of these differences. Probation is regarded as useful especially for young or first offenders and others not hardened in vice or crime. In the best equipped courts ninety per cent of the first offenders are placed on probation instead of being sent to institutions.[1]

Probation, or, better termed, supervision, of dependent and neglected children in their own homes does not differ greatly from supervision of delinquent children on probation. In the former case, the emphasis is placed, of course, on the home conditions and on constructive work with the family. Dependent and neglected families are placed either under the direct supervision of the court or under the supervision of a child-protective society.

c. *Number of Probationers Per Officer*

It is generally agreed that from 50 to 75 cases are all that one probation officer can handle effectively. The report of the Committee on Juvenile-Court Standards gives 50 cases as the maximum that should be under the supervision of one officer at any one time.[2] This standard is rarely adhered to and in many courts each officer is required to supervise from 100 to 200 or even more children on probation.[3]

In order to do effective work probation officers should not be overloaded with too many cases. If the probation officer has a rural district or has other work than supervision or has many girls' cases, 50 cases is probably too large for the best results. If volunteers are used, the fewer children given to each of them the less the danger of failure. If "one man, one boy," is too ideal, the number should not exceed two or three.

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[1] C. L. Chute, "Juvenile Probation," *Annals Amer. Acad.* 45: 223, January, 1923.

[2] Appendix I, p. 229.

[3] *Cf.* Miriam Van Waters, "Report of the Committee on Probation for Women and Girls," *Proc. Natl. Probation Assoc.*, 1924, pp. 202-218, especially p. 207.

d. *Conditions of Probation*

In the constructive or rather reconstructive process, the interest and coöperation of the child and his parents must be by all means enlisted. Once they are secured, the building up of inhibitions, the formation of desirable habits, and the development of ideas of conduct are made much easier. Probation is not chiefly a system of discipline or surveillance or coercion, but implies the mutual understanding and the individual responsibility on the part of the child and his parents for making good. As it is coöperation on the basis of confidence, they should be made to understand the meaning and spirit of probation and to see the opportunities and the responsibilities involved.

In most courts the judge does not specify the conditions of probation except in special cases, but in some courts the definite terms or conditions of probation are laid down. These conditions may be explained to the child and his parents by the judge at the time of the hearing or by the probation officer shortly after the hearing. In some courts they are communicated to the probationer or to his parents or guardian in writing in order that there may be no misunderstanding. The form consists of a blank giving the name of the probation officer, the term of probation, the time and place when and where the child would be expected to report, and space in which the conditions applicable to the individual case can be filled in. The conditions specified usually include many "must nots," such as, the child is required not to visit public dance halls, not to loiter around street corners, not to be out late at night, not to use liquor or tobacco, not to leave the locality without an order of the court, not to marry without the consent of the court, and the like. On the other hand, the child may be ordered to keep away from bad company, to go to school and work regularly, to obey all laws, to obey parents, and to report to the probation officer regularly. Supplementary conditions applicable to the individual case may be imposed by the probation officer. In general, the individual probation officer has a considerable amount of discretion with reference both to the conditions of probation and the decision as to whether the child and his parents are living up to the conditions imposed. Negative discipline is of little value, unless it is accompanied by constructive help. In specifying the conditions of probation the child and his parents should be made to understand that things not forbidden in writing are not necessarily allowable.[1]

e. *Formulation of Plan of Treatment*

Prompt formulation of definite plans of individual treatment at the beginning of probationary supervision is a very important aspect of probation work. It tends to promote constructive work at the beginning of a new case, and so to lessen the chances of failure and to shorten the period of probation required. It is a task which requires not only penetrating insight but, most of all, creative imagination and constructive outlook. To be really constructive, the plan must take into account not only the weak qualities of the probationer, but also his good qualities, upon which the desired superstructure of normal conduct and character may be built. It must be based upon an understanding of all the factors of the problem of the probationer, including his personality, his habits and reactions and the reasons for them, his mental life, his physical strength and weaknesses, the home influences, and the bearing of the school régime on the child's development. It involves the satisfaction not only of general needs of the child, but also his special needs.

Plans, to be really effective, should be checked up at intervals by frequent conferences conducted by the judge or the chief probation officer and members of the probation staff, in order to meet new situations. In some courts where cases may be continued for a brief period, plans can be made more effective as a result of the test.

Although the importance of planning individual treatment is generally recognized, the work is relatively undeveloped and is often done in a haphazard manner.

f. *Reports by Probationers*

After conditions of probation have been given and plans for remedial action have been formulated, the question remains: By what means can the probation officer establish intimate personal relationship with the child and the family—a vital thing in probation? There can be no personal relationship without contact. Contact can usually be secured through regular reports and home visits.

Home visits are, in many respects, preferable to a reporting system. But when a probation officer has a large number of probationers under his or her care, a system of reporting by probationers to the officer becomes a necessity in order to insure regular contact with all his charges. Under this plan the child is required to come regularly to the probation officer at a specified time and place for a report or interview. Written reports from schools, parents, employers, pastors, and physicians are sometimes required to be brought to the officer when the probationer makes his personal report. When rightly safeguarded, reporting not only has a disciplinary value as a means of training the child in habits of regularity and promptness, but also affords the officer an opportunity to establish a confidential and friendly relationship with the child, to give much practical assistance as to health, home conditions, and self-improvement in character and habits, and to know his progress, his interests, and his surroundings that may demand constant readjustment. Reporting must not be made too brief nor perfunctory, consisting of a few stereotyped questions, nor must it be made a substitute for frequent visits to the home.

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[1] *Cf.* Lenroot and Lundberg, *op. cit.*, pp. 172-174.

Regular reporting, weekly, bi-weekly, or monthly according to the character of the home, the seriousness of the offense, and the conduct of the probationer, is generally limited to certain types of older delinquent boys who can be benefited by it. Children physically unfit or otherwise unable to report in person are generally excused. Dependent and neglected children are required to report less often, though their parents are sometimes expected to report for them. Girls and young boys are not required to report except in special cases, but are more frequently visited at home, because it is unsafe for them to travel from place to place. The frequency of the reports usually decreases toward the end of the probation period if the probationer's record is good. Those who are unable to report in person are sometimes required to report by letter.

It is desirable that children should report at suitable places, approved by the judge or chief probation officer, away from police station, court room, or court building and, if possible, probation office. The places may be rooms in schoolhouses, settlement houses, private business offices, or offices of private charitable organizations. The practice of group reporting direct to the judge or the probation officer in the court room or elsewhere is generally disapproved, for it tends to produce harmful mingling of children during and after reporting. The mingling of children can usually be remedied by reporting at different districts, at different times, and in different waiting rooms.

g. *Home Visits and Work with the Family*

As the purpose of probation is to establish personal relationships not only with the child but also with the family, home visits are in the majority of cases the most important part of effective probation work. Home visits bring the officer into contact with both the child and the child's family which may be legally, or in effect, on probation, and, together with reporting, form a complete system of supervision. They are essential to knowledge of the character, habits, and condition of the probationer, the assets and liabilities of the family, and the neighborhood conditions. Through advice and guidance, home visits may result in the correction of many unhealthy conditions in the family, whether they are due to ignorance, poverty, neglect, or immorality. They aim to show what the probation officer and the family may expect from each other, to create a spirit of coöperation, and to maintain sufficient contact with the family to insure such coöperation.

The work of the probation officer with the family is complex and delicate. He must use his imagination and utilize the visits of probationers as an opportunity for constructive help. Sometimes parents and other members of the family need to be taught to assume their responsibilities and to understand one another within the family circle. The probation officer sometimes is compelled to reconstruct a broken or defective home by using his personal influence, with the authority of the court at his back and with the assistance of all available resources of the community. He may be expected to reconcile separated parents, to cause deserters to return, to obtain legal advice, to secure financial assistance for the family, to teach mothers how to care for their children, to advise the family in the matter of health, to find employment for the members of the family, to encourage them to move to a better neighborhood, to enlist the interest of social agencies in the family, and to rehabilitate the family in every possible way. It is important that the probation officer should endeavor to surround the probationer and the family with every helpful influence, but, as a general principle, he should not undertake services for probationers or their families which other agencies are better equipped to furnish.

The frequency with which home visits are made varies in the rules and methods of various courts. In the more difficult cases, visits may sometimes be several times a week, while in the less serious cases as much as two or three months may elapse between visits. The frequency of visits are, of course, affected to some extent by the frequency of reporting, the presence of other agencies, the amount of time given by the individual officers, and the compactness of the districts. In some communities the frequency of home visits is much less and reporting at the office by children on probation is largely substituted for home visits.[1] Visits must be sufficiently frequent and well planned and not too brief and perfunctory in order to ascertain the probationer's conduct and environment and to establish friendly personal relations with the probationer and his family. The Committee on Juvenile-Court Standards fixes two weeks as the minimum interval between home visits except in rare cases.[2] As a general principle, however, individual needs must govern the frequency with which the homes are visited.

Generally, the homes of girls and young boys are visited more frequently than those of older boys. Visits are more frequent in the beginning of a case than toward the end. They may take place at home, at school, or at place of employment.

h. *School Aspects of Probation*

Probation often involves the reconstruction not only of the child's family, but also of his school, vocational, and recreational relationships.

The probation officer's work in the school is to secure the coöperation of school departments, principals, and teachers. As a large proportion of children on probation are attending school, this coöperation in probation work is of great importance. The work involves chiefly two things: school reports and school visits. In most courts delinquent boys attending school are required to bring school reports signed by the principal or by the teacher, containing information in regard to the child's attendance, conduct, and scholarship. These reports are forwarded either directly from the school or through the department of compulsory attendance. The latter practice has the advantage in that the teachers do not know from the request of the department that the children are on probation; otherwise their attitude toward the children on probation may be prejudiced. A school visit involves usually an interview with the child as well as with teacher and principal. It may serve as a substitute for school reports.

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[1] In Indiana, for example, there was an average of only 2.9 visits per boy and 4.39 per girl per year in 1925. See State Probation Department of Indiana, *Report 1925*, p. 4.

[2] Appendix I, p. 230.

As maladjustment in school is often the cause of delinquency, the probation officer often recommends a change of school, a better environment, or a different teacher. In this matter, a close coöperation of the schools, attendance departments, and the probation officers should be worked out. The combination of the office of the probation officer and that of the attendance officer in some rural communities seems to be a desirable solution of the problem.

i. *Recreational Aspects of Probation*

As delinquency is largely misdirected energy and the result of a desire for a search of adventure, spare-time activities are generally regarded as an essential part of probation work. Much of the delinquency of children is not readily distinguishable from their ordinary recreations, for the wish for new experience may take different forms of activities, good or bad. Injurious recreation and loafing—often caused by the lack of any recreational facilities—are generally believed to be great factors in delinquency.[1] Professor Thurston found that seventy-five per cent of the delinquents studied in Cleveland had conduct difficulties related to spare-time activities.[2]

The probation officer should teach his charges how to use their leisure time and seek to get them interested in such organizations as the Boy Scouts, Girl Scouts, the Young Men's Christian Association, the Young Women's Christian Association, settlement houses, the Campfire Girls, and various kinds of clubs for boys and girls which furnish wholesome recreation. The recreational aspects of every case must be given careful consideration and all wholesome recreational agencies, such as camps, playgrounds, winter sports, club rooms, handicraft classes, drama leagues, fireside industries, swimming pools, gymnasia, nature clubs, and many others, should be utilized as an outlet for this youthful surging energy and as a counteraction against the undesirable amusements, such as unwholesome movies, indecent theatres, cheap dance halls, and pool rooms. In some cases the probation officer directs the reading of the children and advises them in the matter of personal hygiene.

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[1] *Cf.* R. K. Atkinson, "Delinquency and Leisure," *Proc. N. Y. State Conf. Probation Officers*, 1922, in *Report of the New York State Probation Commission*, 1922, pp. 122-131; A. T. Burns, "Spare Time and Delinquency," *Proc. Natl. Conf. Social Work*, 1919, p. 16-19.

[2] H. W. Thurston, *Delinquency and Spare Time*, p. 105-120.

j. *Vocational Aspects of Probation*

Vocational aspects of probation are important, particularly in cases of boys and girls of working age. They involve both the preparation of the child for industrial or commercial life and the selection of occupations that have vocational value. The probation officer should be able to determine the child's capacities and to stimulate his ambitions and should be well equipped with knowledge of the vocational opportunities in the community and the kind of preparation that is required for various occupations.

Whenever possible, the work should be done through coöperation between the court and the agencies specializing in the vocational guidance and placement of children, such as a public or private employment office, the public school department of vocational education, the Young Men's Christian Association, the school attendance department, the Big Brother and the Big Sister organizations, and similar agencies. The maintenance of a special bureau of employment or vocational guidance bureau under the auspices of the court, as in some large cities, is not necessary when other coöperating agencies are available. In comparatively few communities, however, are employment or vocational guidance agencies fully developed or capable of meeting the needs of all the children. The result is that either the probation officer is forced to take the whole burden or to leave the matter to the child's own discretion. As vocational guidance and placement of children are highly specialized tasks, in some courts one of the probation officers is specially qualified and designated for this work.

The probation officer should give general guidance and keep in touch with the employers of the children, especially in cases in which the position has been secured by himself. He should frequently visit their places of employment and adjust difficulties that may arise while in employment. The question of visits to places of employment should, of course, depend largely on whether or not the employer knows the child is on probation. Adjustment in industry is one of the important means to prevent delinquency in view of the fact that in a large percentage of cases there is a direct connection between the delinquency and the occupation, especially in cases of girls.[1]

k. *Medical Aspects of Probation*

As a rule, mental and physical examinations should be made before children are placed on probation. But such examinations are often necessary for children after they are placed on probation in order to ascertain mental and physical defects, to discover causes of delinquency, and to determine the plan of treatment. This phase of the probation work with children varies in different courts. Some courts pay attention to both mental and physical conditions of probationers, but most courts give more attention to the correction of physical defects, the most important of which are dental defects, defective tonsils, and venereal diseases. A few courts employ a physician or psychiatrist, or both, and maintain their own medical departments, usually connected with detention homes, but most courts depend entirely upon the coöperation of outside agencies, such as the medical staff of hospitals, physicians of special clinics, city health departments, and specialists employed by boards of education and other health agencies or institutions. It is the duty of the probation officer to see that proper medical attention is secured for his charges in some way.

l. *Probation for Girls*

Because of the delicate nature of girls' cases, the handling of girls in juvenile courts demands special attention. It requires a special spirit and different methods to handle girls' cases, which should permeate the entire organization and reach the girls at all stages of the court's contact with them. We have already indicated elsewhere the special methods of dealing with girls' cases in connection with procedure prior to the hearing and the nature of proceedings in their cases.[2] The most important and difficult question in girls' cases, however, is the problem of probation. In this connection we have already indicated the relative merits of reports and family visits and some other aspects of probation.[3]

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[1] On this point see Ruth McIntyre, "Child Labor and Juvenile Delinquency," *Jour. Delinq.*, 3:95-114, May, 1918; United States, "Report on Women and Child Wage-Earners," 1910, Vol. VIII, *Juvenile Delinquency and Its Relation to Employment*, p. 37; Louise de K. Bowen, *Safeguards for City Youth at Work and at Play*, p. 218; W. I. Thomas, *The Unadjusted Girl*, p. 118.

[2] *Supra*, pp. 74-78, 103, 105, 108, 121, 126, 131, 133, 135.

[3] *Supra*, pp. 151, 154, 156, 159.

The success of probation work with girls depends upon several important factors, such as the selection of probationers, the character of supervision, and the spirit and personality of the probation officer. The first essential principle of probation work with girls is that girls' cases should always be handled by women officers. The work requires the application of the fundamental principles of case work—scientific understanding and adaptation of treatment to individual needs. Here we are particularly interested in some general psychological factors in dealing with girls on probation, because the difference between the methods of dealing with boys and girls is largely a psychological one.

It is generally believed that probation work with delinquent girls is much more difficult and less rewarding than probation work with delinquent boys. The most frequent cause of delinquency among girls is adolescence itself and the inability of the immature and undeveloped organism to adapt itself to what society regards as conventional. During the early years of adolescence, when the girl is emotionally unstable—at the time when she is apt to become a problem—she is often a difficult person to help; often hysterical, not knowing what she wants nor why she wants it. This emotional instability is usually regarded as the chief cause of the delinquency of modern girls, and only recently has it begun to receive scientific study and understanding treatment. Modern girls are demanding freedom and self-expression and seeking to satisfy their social, biological, and emotional needs, which often do not conform to conventions which society would impose upon them in the effort to make them acceptable members of the social group. Too often the way of conformity is not at all suitable to their fundamental capacities and results in maladjustment or delinquency, when the instinctive forces of their nature and the highly specialized environment which constitutes the adult world come into conflict.

The first requisite, then, in an approach to the problem of the delinquent girl, is an intimate knowledge of the normal process of adolescence and a recognition of the fact that her behavior is but the expression of the conflict between the forces which impel action and the environment in which she lives. The answer to the question as to why girls go wrong must be sought in a study of the girl herself. William I. Thomas in his book, *The Unadjusted Girl*, emphasizes the fact that all human behavior should be studied in the light of the forces which impel action and he divides these forces into four types of wishes: the wish for new experience, for security, for response, and for recognition.[1] It is the thwarting or misdirecting of one or more of these wishes that often results in maladjustment and leads to delinquency. We know that the beginning of delinquency in girls is usually an impulse to get amusement, adventure, pretty clothes, favorable notice, appreciation, distinction, and freedom in the larger world which presents so many allurements. In this situation of pressure and unrest caused by their desires, they are craving new forms of diversion and fresh excitement and are not willing to accept what they consider the stupid restraints of convention.

The forms of delinquency of girls may be anti-social sex behavior, theft, lying, running away from home, incorrigibility, and the like, but in most cases it is largely a matter of sexual non-conformity, as one might expect, for most girls brought before juvenile courts are cases of sex delinquency.[2] This is largely due to the fact, as stated by Francis Q. Holsopple, that "perhaps there is no field in which standards of behavior vary so widely in relation to race, time, and place as the standards which govern sexual relationships."[3] It is generally believed, however, that sexual passion itself does not seem to play an important rôle in delinquency of girls. Their sex is used merely as a means of putting themselves across and as a condition of realization of other wishes.

The essential thing to be done in the case of a delinquent girl is to assist her in working out a better social and personal adjustment. She must be taught self-respect, self-reliance, a rational attitude toward sex, and a sense of human relationship. She needs life, beauty, companionship, and opportunities for work and play; that is, she needs an object in life, something to live for, something to work for. When she is unfortunate, the probation officer and the community should be sympathetic to her. She should not be looked upon as "ruined," "fallen," or "lost," or labeled under other classifying terms. In most cases she is not different from other girls except that she is unfortunate. She should be helped to change her point of view so that she may look at life in a new light. It is the duty of the probation officer to arouse in her new interests, to restore her faith in the dignity of human life, and to guide her uncertain footsteps toward worthy social goals. This means, in brief, fitting her in the right kind of work, placing her in the right kind of environment and getting social agencies interested in her; and it also means a personal understanding, a friendship, a mutual sympathy and confidence that enable the probation officer to be a true friend to her. For this reason, the probation officer should be specially qualified for her delicate task and should understand the psychology of girls, particularly that of adolescence. Miss Mary E. McChristie put the qualifications of a probation officer who deals with girls in the following illuminating words:

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[1] Thomas, *The Unadjusted Girl*, p. 4.

[2] On this point see, for example, Jean Walker, "Factors Contributing to the Delinquency of Defective Girls," *University of California Publications in Psychology*, 3: 158, April 3, 1925; Julia Mathews, "A Survey of 341 Delinquent Girls in California," *Jour. Delinq.*, 8:196-231, May-July, 1923; Mabel R. Fernald, Mary H. S. Hayes, and Almena Dawley, *A Study of Women Delinquents in New York State*, p. 143.

[3] F. Q. Holsopple, *Social Non-Conformity; an Analysis of* 420 *Cases of Delinquent Girls and Women*, p. 5.

> No "mental old maid" should be allowed to interview girls. Chronological age is of no consequence; she may be sixty and realize that love is still in the world, or she may be thirty and fail of this realization. The interviewer must have a sense of humor, an understanding of the ecstatic thrills of adolescence. She must above all realize that sex is a beautiful and not an abhorrent thing. My ideal woman probation officer should dress well, fashionably if possible. Girls capitulate very quickly to a woman of good taste in dress. If she looks old-maidish they immediately group her with the unattached; discredit her motives, call her soured, and rather pityingly wonder if she has ever had a thrill. No contact of mental thought or mutual admiration is established.[1]

Therefore, to be successful, the probation officer should never preach to girls, for they want no sermonizing. The best way is to understand them, to talk to them in perfect frankness, and to cultivate those common human needs which we call approval, love, friendship, and loyalty.

In the treatment of the unmarried mother as a delinquency problem, the application of the principles of case work is important. Unmarried mothers are for the most part young mothers, and a considerable proportion are girls in their teens. It has been shown for the four cities studied by the United States Children's Bureau that one-sixth of the unmarried mothers were under eighteen years of age.[2] Dr. Healy, in his introduction to Kammerer's *The Unmarried*

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[1] Mary E. McChristie, "Why They Tell," *Survey*, 5:446-448, July 15, 1923.

[2] Emma O. Lundberg and Katharine F. Lenroot, "Illigitimacy as a Child-Welfare Problem," Part 2, U. S. Children's Bureau, *Pub. 75*, p. 241.

Mother, questions whether such a constructive act as bringing a child into the world should ever be classed as a crime. In most cases she is no more difficult of rehabilitation than other delinquent girls. In preventive and reconstructive measures in the case of the unmarried mother as in other delinquent girls' cases, it is important to keep in mind always the desirability of plans which involve the maximum of normal adjustment and the minimum of differentiation from modes of living and associations which the community regards as customary.[1] In case of the unmarried mother, sympathy, kindly counsel, and aid should be given to her. Adjustment should be such as to enable her to meet her responsibilities toward her child. Her marriage to the father of the child as a compromise measure is not to be encouraged, but the father of the child should be made to support the child.

m. *Supervision of Case Work*

Supervision of each officer's work, both as to its quantity and quality, by the chief probation officer, assistant chief probation officer, or department supervisor, is essential in developing an effective system of centralized responsibility and control. The work of a probation officer, including both the making and the carrying out of plans of treatment, is as much in need of careful supervision as any case work in other social service fields. Individual responsibility of each probation officer for his or her own cases often results in uncertainty, confusion, lack of uniformity, friction within the staff, uneven distribution of work, and complicated relationship with outside agencies and institutions.

Adequate supervision of case work requires the supervisor to review all the social, physical, and mental findings and to assist the probation officer in formulating the general plan of treatment to be recommended to the judge prior to the hearing, to assist the probation officer to formulate the detailed plan of treatment at the beginning of probation, to review periodically the progress of the case, achievements, and failure, and to advise as to modifications in the original plan which may be necessary from time to time during probation, and to consult with the probation officer in special cases when difficult problems arise that cannot be solved satisfactorily by the probation officer or when a case is to be reheard for any reason.[1] Of course, in supervising case work, excessive standardization and uniformity should be avoided just as much as undue individualization. Reasonable discretion should always be allowed the individual probation officer in each case.

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[1] Katharine F. Lenroot, "Social Responsibility for the Care of the Delinquent Girl and the Unmarried Mother," *Jour. Delinq.*, 10:74-82, February, 1924.

Informal consultations, case conferences, department conferences, monthly or weekly summaries of cases, and staff meetings, regular or when needed, are some of the common methods of case supervision. They deal not only with the planning, the progress, and the difficulties of individual probation cases, but also with the policies and methods of probation work in general. The judge in some courts is frequently consulted in regard to cases presenting problems of special difficulty.

n. *Length of Probation and Termination of Probation*

The National Probation Association, in its standards, has recommended that a general minimum probation period from six months to one year is desirable, but that exceptions should be allowed on recommendation of the supervisor or chief probation officer, and that the length of probation in each case should be determined by study of the case, needs disclosed, and progress made.[2]

The maximum probationary period—two or three years—is sometimes fixed by law. Within that limit the court may fix the period of probation and after fixing it once may subsequently alter it. In some courts definite probation periods are specified by the judge in his probation orders, while in others probation periods are indefinite. In both cases they can be extended once or several times during the child's juvenile-court age or during his minority, if supervision is needed for so long a time. Probationers should be returned promptly to the court when the probation officer is firmly convinced of the unfitness of the probationer for further probationary treatment.

Probation periods should not be unnecessarily prolonged. The short probation periods are believed to keep down the number of probation cases, to stimulate the probation officer to constructive work early in the probation period, and to encourage the child by holding hope of early discharge. On the other hand, the probation period should be long enough to afford opportunity for definite improvement in the character and conduct of the probationers. Less than six months is usually too short a time for satisfactory results. In most cases the probationary period of one year or longer is probably adequate, although it is impossible to determine this except with reference to the character and conduct of the individual probationer while under supervision. The practice of placing children on probation for an indefinite period to be determined by individual needs of the probationer is much more preferable. The variations in the length of probation are attributable not only to the type of cases but also to the policy of different courts.

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[1] *Cf.* Lenroot and Lundberg, *op. cit.*, p. 188.

[2] C. W. Hoffman, "Standards for Supervising Persons on Probation," *Proc. Natl. Probation Assoc.*, 1918, p. 95.

In most courts the judge makes the decision with reference to release from probation. The child is either required to appear in court or is notified of his dismissal by mail. On the other hand, there are many courts which leave the discharge of probationers entirely to the probation officer. Some contact of the judge with the probationers at the time of discharge is generally considered advisable and desirable. When cases are "placed on file," as is the practice in some courts, and are not dismissed, they can be reopened at any time during the period when the child is within the age jurisdiction of the court.

A child is discharged from probation when he makes improvement in his character and conduct. The best test of terminating probation is that stated by Katharine F. Lenroot and Emma O. Lundberg as follows:

> If probationary supervision has been developed constructively with a view to correcting personal and environmental maladjustments, the termination of probation should imply that the child is ready to meet his problems with no other aid than that which can be expected from the home, the school, the church, and such agencies as settlements, clubs, and scout troops. Successful probation service will have connected the child with these agencies, and their continuing interest in the child after his discharge from probation may be most helpful.[1]

o. *Success of Probation*

Measurement of the extent to which probation is successful is almost equivalent to that of the extent to which the juvenile court itself is successful. The degree of the success of probation depends upon many factors, such as the competency of the probation officers, the wisdom of choosing cases for probation, the nature of the anti-social behavior, and the spirit of the community coöperation.

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[1] Lenroot and Lundberg, *op. cit.*, p. 194.

It is extremely difficult to adopt a standard to measure the extent to which probation is successful. Probation is but an art based upon a very fragmentary experience, and our knowledge is not yet such as to warrant our codifying it into scientific formulas. The words "success," "unsuccess," and "failure" are rather vague terms, involving many degrees and depending upon their interpretation on the subjective mental attitude of the person using them. Most statistical methods in this respect are of doubtful value. It is impossible to express anything so subtle as human relationships statistically with any degree of mathematical accuracy. Discharges from probation with or without improvement, commitments to institutions for violation of probation, and decrease in prison populations in a given community do not necessarily give an adequate index of the success of probation. Improvement in conduct may be due to the curative powers latent in the human nature or to a desire to win prompt release and may cease as soon as probation ends. That the child has not violated technically the terms of probation is not a sure indication of the success of probation. Decrease in prison populations in a given community may be due to some social and economic changes. None of the attempts to measure the success of probation is satisfactory. Perhaps the measure can only be gauged by experience and a prolonged scientific study of the probationers after release.

Nevertheless, all the available data, however inadequate they may be, do show in a general way that probation is a wise and powerful instrument in the correction and reclamation of handicapped children and is successful in a large majority of cases. The National Probation Association has estimated that approximately 200,000 children under eighteen years of age have passed through the courts in the United States in 1923. In the juvenile courts more than 75 per cent of these were placed on probation, and 80 per cent of these have completed probation periods with success.[1] In New York State 7,009 children were on probation in 1925, and 5,495, or about 82.1 per cent out of 6,687 children who completed probation periods, were reported as discharged with improvement.[2]

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[1] For the statement see *New York Times*, 12:2, December 21, 1923.

[2] New York State Probation Commission, *Report 1925*, pp. 33-35.

Probation, although fundamentally an effort to study the individual and apply social treatment to the young and reformable offender in place of incarceration, has often been claimed as an economical measure as well. States have found it more than worthwhile to share in establishing and supervising this service. A recent Indiana report announces that the counties in that state benefit by an annual saving of $274 for each child who is placed in a good home under the supervision of a probation officer, instead of being committed to a reformatory or other institutions for delinquents.[1] It has also been estimated that in New York State the average per capita maintenance cost in prisons in 1925 was $555.72 while probation supervision for that year cost only $29.34 for each offender, approximately one-nineteenth of the cost of institutional care.[2]

The economy of probation as against institutional care, however, should not be overemphasized. The economic aspects of probation are less easily demonstrated. It will probably be as expensive as institutional care if it is to bring the desired results. There is little doubt that many states which have demonstrated the economy of their probation service are those in which probation has been poorly administered.

Despite these precautions in ascertaining the success of probation, perhaps no other correctional institution can show as large a percentage of successes in terms of saving children and economy of its administration as that shown by the probation system. Even if a large proportion of probation cases fail, it does not prove that the philosophy of probation is morally or economically unsound. The failure may be due to the fact that the system is improperly or too cheaply administerd.

7. *HOME PLACEMENT*

a. *Nature of Home Placement*

Juvenile-court laws throughout the country usually confer power on the juvenile court to place the delinquent, neglected, and dependent child in a "suitable home," a "foster home," a "free home," a "boarding home" or a "family home," as it is variously called, when the child cannot be cared for in his own home, or when he has no home but is not in need of institutional care. The placing of children in foster family homes was recognized by law in Massachusetts as early as 1869. It implies the transfer of the custody of the child to an individual or an agency and has a distinct object in view, that is, to make the child a member of the family home in which he is placed. The presumption is that the child should always be kept in his own home, but investigation may show that this cannot be done and the child is placeable according to other circumstances. The foster-family-home care is regarded as the best treatment for a child whose own home is unfit, since it gives the child a chance to live a normal family life, saves him from the artificial life of an institution, and yet separates him from the degenerating influences of his former environment.

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[1] "Juvenile Probation in Indiana," *Survey*, 54:84, April 15, 1925.

[2] New York State Probation Commission, *Report, 1925*, pp. 12-13.

A child is placed in a family home either through the appointment of a legal guardian of his person with the right to place and sometimes the right to consent to adoption, or through commitment to a public or private child-placing agency, which becomes the legal guardian of the child with one or both of these rights, or through the court itself when the child remains a ward of the court with or without supervision. Orders appointing guardians and committing to child-placing agencies are infrequent as compared with orders of probation and orders of commitment to institutions.

b. *Placing through Appointment of Individuals as Guardians*

In some states the juvenile-court law authorizes the court to appoint "reputable citizens" as guardians of the persons of children. In such cases the court is usually governed by the provisions of law relating to the appointment of guardians. The individuals appointed are either persons known to the parents or officers of the court. Children placed in family homes by probation officers, who are appointed guardians, are usually directly supervised by them through reporting or visits. In this case the purpose is usually to place an older boy in a farmer's home or an older girl in a home as a mother's helper where they can earn room and board and at the same time go to school.

c. *Placing through Child-Placing Agencies*

Commitment to a child-placing agency is different from commitment to an institution, for in the former case the chief purpose is, in most instances, to place the child in a family home.

A public child-placing agency, usually styled as a board of children's guardians, becomes the legal guardian of the child committed to it and usually has power to place the child in a family home and sometimes in an institution. In some places the court has no power to place a child in a family home or to commit him to an institution except through the medium of a public agency. The major part of placing-out work in most courts, however, is done by various private child-caring agencies, usually styled as children's aid societies. These agencies are incorporated under the state law and are usually supervised by a local or state department. They become legal guardians of the children, usually dependent or neglected, who are committed to them, and the care of the children passes to them from court officers, to whom these agencies are usually required to report. Children committed to these agencies are usually placed in family homes and supervised by agents of the societies. The child-placing work, including home-finding, investigation, and supervision, is a highly specialized task and is now fairly standardized.[1]

d. *Placing through the Court Itself*

A distinction should be made between placing a child on probation by the court itself in a home other than his own and what is known as child-placing, described above; for children on probation may be placed in the homes of relatives or close friends designated by the court and the court may sometimes utilize child-placing agencies for the care of children on probation who need to be provided for away from their own homes. For instance, the Boston Children's Aid Society has a highly specialized placing-out service for delinquent children on probation, which is extensively used by the juvenile court in Boston, but it is different from what is technically known as child-placing in families. The distinction between the two is a fine and technical one, but it is, nevertheless, significant. In the first place, commitment to child-placing agencies and appointing individuals as guardians from outsiders or from among court officers are usually special and distinct court orders, while placing a child on probation in a home other than his own is often an informal arrangement, usually made by the probation staff, and the order is still that of probation. Children placed in a family home on probation are usually subject to the same kind of probationary supervision as children placed on probation in their homes, except that they may be subject more or less to the supervision of a child-placing agency if they are placed by it. In the second place, the probation order is generally used to meet problems more temporary than those met by family-home placement. Orders appointing a guardian or committing to an agency are generally used in those cases in which it appears that the arrangement made must be of relatively long duration owing either to the unfitness of the home or to the death of one or both parents. In the third place, the placement of children in family homes necessarily implies the transfer of guardianship to an individual or agency, but placement in family homes on probation does not necessarily have such a legal consequence.

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[1] For technical points in child-placing work see U. S. Children's Bureau, "Foster-Home Care for Dependent Children," *Pub. 136*; W. H. Singerland, ***Child-Placing in Families;*** E. J. Butler, "Standards of Child Placing and Supervision," in "Standards of Child Welfare," U. S. Children's Bureau, *Pub. 60*, pp. 356-360.

The wisdom of ordering placement of children in family homes has not been questioned, but opinions differ as to whether the court itself through its officers should engage in placing-out activities. Some juvenile courts, as in Chicago, have established well-equipped child-placing divisions or bureaus in their probation offices. Very few courts are engaged in child-placing to any considerable extent, but most of them occasionally place children in family homes. It is believed, however, that, as a rule, when other agencies, public or private, are able to undertake placing of children, it is better for the juvenile court not to assume the responsibility for this specialized task, and that only where coöperating facilities for child-placing are relatively undeveloped and cannot be made available, may there be some justification for the court to engage in this administrative work as a temporary expedient.[1] As most juvenile courts are generally already overloaded with work, to take upon themselves the work of child-placing would usually mean that the work must be done hastily and unscientifically and often by officers unqualified or at least inexperienced in this branch of social service.

8. *COMMITMENT TO INSTITUTIONS*

a. *Nature of Commitment*

Probation and home placement do not do away with the necessity of correctional institutions to round out the work of a juvenile court. When the interest of the community as well as the interest of the child himself warrants immediate institutional care, the child must be sent to a suitable institution for discipline and training. An order for commitment to an institution is a last resort on the part of the court. By this order a child is placed in the custody of an institution. It should be used only when a careful study that includes a knowledge of the needs and possibilities of the individual clearly indicates the necessity for it, or when repeated attempts to adjust the child to home life in the community have failed. Its justification, as in all other dispositions, lies only in educational discipline that such a commitment may give. The steady régime of a really good correctional institution over a prolonged period often offers the best chance for beneficial treatment for certain types of children. The value of its well directed discipline must not be lightly discarded, for discipline is frequently not only advisable but necessary.

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[1] *Cf.* T. D. Eliot, *The Juvenile Court and the Community*, p. 104; Singerland, *op. cit.*, pp. 53-54; Lenroot and Lundberg, *op. cit.*, pp. 219-220; Appendix I, p. 228.

Commitment to institutions is seldom made without a preliminary period of trial on probation by which the child is cared for in his own community. Dependent children who are not delinquent should be sparingly committed to institutions. Greater effort is usually made to find a suitable and normal home environment for them before resorting to commitment to an institution. Young children should never be committed thereto. In cases in which home conditions are such that the child must be provided for elsewhere, and a period of probation is impossible, many courts utilize for such cases intermediate dispositions, such as placement in private homes by the officers of the court or by child-placing agencies. The steps usually followed in the best equipped courts are continuance or several continuances, probation at home, family-home care, commitment to intermediate institutions, that is, county, city, or private institutions, and, finally, commitment to a state institution. Of course, in few cases would all these steps be taken, but one or another plan would be adopted, if that seems from the beginning the only logical order that the court can make.

b. *Classes of Children Committed*

Commitment of children to institutions may be made through the medium of child-placing agencies, especially public agencies, but, in most cases, commitment of children thereto is made directly by the court. In delinquency cases commitment may be made to state institutions, city or county institutions, or private institutions according to individual needs and the availability of such institutions.

The institutions receiving dependent and neglected children are more numerous than those receiving delinquents and most of them are under private management. Private institutions are ordinarily used for temporary purposes when the cases are continued without adjudication, when a short period of good institutional care is needed to prepare a child for placement in a family home, or when his home conditions may be improved in a short time and the child may be soon returned to his home. In a majority of states there is a failure to provide adequately for the separate care of delinquent and dependent or neglected children, and dependent and neglected children are often committed to institutions intended primarily for the care of delinquents. The laws of some states definitely prohibit the commitment of children from both groups to the same institution.

The commitment of defective children to institutions presents a somewhat different question. There is no doubt that defectives, whether delinquent or not, demand special care. They are generally regarded as institutional cases, but institutional care alone cannot meet the whole problem of provision for them. There should be sufficient institutional facilities for their care, when it is necessary to segregate them from ordinary life, but the modern tendency and recent experiments show that certain classes of mental defectives can be permitted, under suitable guardianship and supervision, to live a normal life in their own communities so as to give greater justice to individuals and to reduce the expense of institutional care.[1]

c. *Principles of Institutional Care*

Although the first juvenile reformatory, under the name of "house of refuge," was established under the auspices of a private society in New York in 1825, the first institution of this kind under the name of "reform school" and under the control of the state government was not established until 1847 in Massachusetts, namely, the Lyman School for boys. Later the names of such institutions were generally changed to "training school" or "industrial school" for boys or girls. The recent tendency is to designate them simply by the names of persons or places in order to further remove the stigma. This change of name is somewhat indicative of changes which have taken place in the character of the institutions themselves. A census taken by the United States Bureau of the Census in 1923 shows that by 1923 there were 145 such institutions in the United States primarily for juvenile delinquents; 93 of them were state institutions, 30 were county or city institutions, and 22 were private institutions; 79 of them were for boys, 56 for girls, and 10 for both sexes.[1] The direct administration of institutions other than detention homes is a function of only a few courts and even this administration is usually only partial.

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[1] For some recent interesting contributions to the subject of the care of the mental defectives see articles by Charles Berstein in *Mental Hygiene*, January, 1920 and July, 1923; articles by Walter E. Fernald in *Mental Hygiene*, January, 1917 and October, 1919.

In some states where training schools for delinquents are not available, older delinquent children are sometimes committed to a state reformatory, a semi-penal state institution for young adults from 16 or 18 to 25 or 30 years of age. This practice, except in exceptional cases, is, of course, not to be commended.

In addition to these old designations, institutions for juveniles have developed into various types. Truant schools, now generally styled parental schools, are usually limited to the care of truant children, but they occasionally receive delinquents. Then there are state, city, and county institutions for the care of dependent or neglected boys or girls and women. Private institutions and agencies to which the courts in most states are authorized to commit dependent and neglected children are usually under the auspices of religious or fraternal organizations. Private institutions other than training schools are represented by various types, such as shelters, protectories, day nurseries, children's villages, industrial farms, the House of the Good Shepherd, the George Junior Republic, and so forth. Most institutions, public or private, receive only delinquents or only dependents and neglected, but some of them receive children from both groups, though their primary purpose may be for the one or the other. In some places there are special institutional facilities for the care of dependent crippled children, feeble-minded and epileptic children, children venereally infected, and unmarried mothers and their babies.[2]

There are several essential features in the development of the juvenile institutions. The first feature is the separation of sexes. The House of Refuge of New York City cared for juvenile offenders of both sexes. Now there is not only a separation of sexes but also a separation according to the character of children.[1] The second feature is the plan of architecture. The first institutions were built on the congregate plan, but beginning with the adoption of the cottage plan in 1865 at Lancaster, Ohio, the institutions of today generally follow this idea and approach as nearly as possible a home-like arrangement, permitting at the same time the greater ease of classification and, therefore, individual treatment. The third feature is related to the matter of education and training. In the early days of the juvenile reformatories, children were worked on the theory that they should earn their way, but the ideals and methods of training in the better regulated institutions of today are mainly to provide a training in some industry which has educational value, and which will make the child self-supporting in the future. The last feature is the growth of the scientific spirit in institutions. The prime essential to good work is diagnosis to discover the quality and nature of the human material in order to individualize the treatment. While formerly little attention was paid to this aspect of the institutional care, now it is recognized as an important factor in the rehabilitation of human lives.

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[1] U. S. Bureau of Census: "Children under Institutional Care: 1923," p. 288.

[2] A census taken by the United States Bureau of the Census in 1923 shows that the total number of children in the care of institutions and child-placing agencies primarily for the care of dependent and neglected children, on February 1, 1923, was 218,523. See U. S. Bureau of Census: "Children under Institutional Care: 1923," pp. 18, 25.

The true standards of correctional education are the minimum of repression and of variation from modes of living regarded as normal, and the maximum of opportunity for individual development. Traditional standards of child care in institutions have been largely custodial and material standards. The institutions were regarded merely as a means of separating juvenile offenders from adults after their conviction. This old idea of punishment has no place in a modern correctional institution, in which the care, custody and discipline should be as nearly as possible that which would be given by parents. We think now more and more of educational standards and emotional needs of children, and of needs for a normal community life. The administrators of the institutions should never forget that the graduates from an institution must be equipped to live in the normal community to which they belong, unless they are handicapped by irremediable mental or physical defects. The term of commitment of children to institutions should be as brief as possible. The condition of all children should be frequently studied in order to determine whether they should be returned to their own homes, placed in family homes, or transferred to institutions better suited to their needs. As long as they remain in institutions, treatment should be made by scientific process and their condition should approximate as nearly as possible that of normal family life as to health, recreation, schooling, and spiritual, æsthetic, civic, and vocational training.[1]

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[1] For a recent survey of correctional schools for girls see Miriam Van Waters, "Where Girls Go Right; Some Dynamic Aspects of State Correctional Schools for Girls and Young Women," *Survey Graphic*, 48: 361-376, May 27, 1922.

In the problems of correctional school life, special emphasis should be placed on physical education and vocational training in order to build up that vigor of life which is necessary to, successful adjustment, and to make the child self-supporting in the future. Personality adjustment is a very important problem in the formation of habits and it needs to be skilfully and delicately handled. Group life in the form of social solidarity is important in preparation for community life. Student government and community contact should be well directed in order to cultivate loyalty and a sense of responsibility to others. Abstract moral teaching is not the chief contribution of a correctional institution, for much cannot be expected from it, and academic education, though important, is a second consideration in such an institution, the chief functions of which are character-building through group contacts and the formation of industrious habits.[2]

The question of the success of institutional care is a significant one in view of the fact that there are today large numbers of delinquent boys and girls in institutions for juvenile delinquents in the United States.[3] The success has been variously estimated and hotly debated. It has often been charged that the herding together of juvenile delinquents in an institution causes moral contamination by bad communications. Its artificial life gives little opportunity for developing normal social contacts. As stigma is always attached to commitment to institutions, it ~~in~~frequently produces a sense of inferiority on the part of the child. Kirchwey stated on apparently good authority that over two-thirds of the inmates of Sing-Sing Prison had been in some juvenile institution.[1] Healy and Bronner found that out of 420 juvenile repeated offenders who passed through the Chicago juvenile court between 1909 and 1914, 157 were later committed to adult correctional institutions. Out of these 157, 134 (85%) had been committed to juvenile correctional institutions. In Boston, during the same period, out of 400 juvenile repeated offenders, 25 were later committed as adults; 11 (44%) of these 25 had been committed as juveniles. Out of 400 juvenile repeated offenders who passed through the Boston juvenile court during 1918 and 1919, 63 were later committed to adult institutions; 39 (62%) of these 63 had had training in juvenile institutions.[2] On the other hand, it is customary for juvenile correctional institutions to report more than 75 per cent of paroles successfull. The majority of them claim that from 70 to 80 per cent of those who pass through the institutions remain in the community with moderate success.[3]

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[1] *Cf.* U. S. Children's Bureau, "Minimum Standards for Child Welfare," *Pub. 62*, p. 12.

[2] For a good discussion of this subject see Miriam Van Waters, "The True Value of Correctional Education," *Proc. Amer. Prison Assoc.*, 1921, pp. 167-176. See also the chapter on correctional education in her *Youth in Conflict*, pp. 197-222.

[3] A census taken by the United States Bureau of the Census shows that, in 1923, 23,248 delinquent children were admitted to institutions; 18,640 of these to institutions for juvenile delinquents, and 2,230 to penal institutions. The total number of dependent, neglected and delinquent children in care of institutions and child-placing agencies on February 1, 1923, was 404,678. See U. S. Bureau of Census, "Children under Institutional Care: 1923," pp. 14, 295.

The evidence of the success of institutional care is thus extremely conflicting. We have no adequate means of testing the results of institutional care just as we found in the case of probationary treatment. In both cases many important factors must be taken into account. No institution, not even if it were ideal, could duplicate the variety found in community life. It cannot substitute the home and the normal community influence. It has inherent limitations which it is apparently impossible to overcome. But the need for institutional treatment for some offenders who cannot be left in their own communities cannot be doubted. The best we can do is to keep the institution under a cottage plan so that individualization is made possible. Children cannot be educated *en masse*. It is also essential to keep it a home, a school, and a workshop, so that children can live a normal life. The régime and management should be scientifically adapted to the needs of the human material received. Most important of all, the success of an institution depends more upon the ability, knowledge, personality, scientific attitude, and sympathetic temperament of persons who administer the institution than upon anything else.

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[1] G. H. Kirchwey, "Institutions for Juvenile Delinquents," in *The Child, the Clinic and the Court*, pp. 331-337.

[2] Wm. Healy and Augusta F. Bronner, *Delinquents and Criminals; Their Making and Unmaking*, pp. 75-78.

[3] See, for example, reports of New Mexico Reform School, 1916, p. 15; Whittier State School, 1916-1918, p. 27; Wisconsin Industrial School for Girls, 1924, p. 288; Report of the Trustees of Massachusetts Training Schools, 1925, pp. 20-21; Report of the Managers of the Society for the Reformation of Juvenile Delinquents in the City of New York, 1924, p. 46.

d. *Relationship of the Court to Agencies and Institutions*

Laws and practices vary greatly as to whether or not the court, after a final order has been entered, has any further control over the child committed to an agency or institution or over the agency or institution to which he has been committed.

Commitments to state institutions for juveniles usually are minority commitments. In many states the control of the court over the child in such cases is practically at an end, as the relationships of the court with state institutions are usually governed by separate statutes. When the statutes are ambiguous, courts generally take the view that after the commitment the jurisdiction of the court is ended on the ground that, historically, the institutions antedate the juvenile courts [1] or that the term in which the court entered judgment has elapsed. [2] In this case the institution to which the child has been committed has full control over the custody, training, parole, and release of the child. The court is rarely kept informed of the child's progress in the institution except through some informal arrangement. In some states, however, the jurisdiction of the court continues either to the extent that the court has complete power of release, transfer, and parole and may modify or set aside its original judgment, or to the extent that the judge has some general powers of supervision or visitation or else his consent is necessary for the child's discharge from an institution, or he can discharge a child with the consent of the institution.

Commitments to city or county institutions are usually indeterminate. The length of stay may vary from a few months to two years. The courts which utilize these institutions usually retain jurisdiction over the children sent to them as to their parole and release. They keep in touch with children's progress in these institutions through their probation officers. Monthly reports and frequent visitations are usually maintained. Children released on parole usually remain under the supervision of probation officers. The control of the court over children committed to private agencies and institutions is usually more complete, for their relationship is generally governed not by separate statutes but by juvenile-court laws.

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[1] In re Johnson, 36 Cal. App. 319 (1918); McClain *v.* Superor Court of Chelan Co., 112 Wash. 260 (1920).

[2] State Home *v.* Mulertz, 60 Colo 468 (1916).

It is believed that in order to deal with children's cases consistently and satisfactorily, the juvenile court must have the power to keep in constant touch with the children who have been committed to institutions. It may become advisable to remove a child from an institution to which he has been committed or place him on probation or transfer him to a family home. Statutes and judicial decisions, which, in effect, give to an institution the power which should belong to the juvenile court, make it difficult for the court to do its work in an efficient manner. [1]

The relationship between the court and the agencies and institutions is a matter of both law and coöperation. Not only must statutes be coördinated in order to rationalize their relationship, but a spirit of coöperation is necessary in all cases. The institution must keep the court informed of the child's progress and, if it has the authority of release, must consult the court regarding the child's discharge. On the other hand, the court must give the institution full information concerning the child's social, physical, and mental history and a history of the work done by it on the case at the beginning of commitment. In the matter of release, if the court has that authority, the opinion of the authorities of the institution should be given due weight, for they are in close touch with the child's progress.

e. *Parental Duty of Support*

In the majority of the states the law provides that the parents, or either of them, may be compelled to support or to contribute to the support of their children placed in the care of individuals, agencies, or institutions. Failure to pay may be punished as contempt of court. The order may be enforced by execution, or in any way in which a court of equity may enforce its orders, or as other money judgments are enforced. In case of their inability to pay, the expense is usually borne by the county or city, allowing a lump sum or a per capita subsidy.

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[1] *Cf*. Bernard Flexner and Reuben Oppenheimer, "The Legal Aspect of the Juvenile Court," U. S. Children' Bureau, *Pub. 99*, pp. 24-25.

Chapter IX

THE JUVENILE COURT AND THE COMMUNITY

1. *JUVENILE DELINQUENCY AS A COMMUNITY PROBLEM*

Juvenile delinquency is not a problem of the courts only but, in its causes, its consequences, and its treatment, is also a problem of the community. It is largely the community which provides for its youth their attitude, their philosophy of life, their example, their contacts, and their incentives. Juvenile delinquency, in its last analysis, is nothing but the result of the maladjustment of the child to the community standards and the failure on the part of the community to provide for his wholesome development. The community, therefore, must take upon itself the responsibility for the child's social maladjustments in the community, whether they arise in home, in school, in industry, in recreation, or elsewhere. The community must also detect and treat early symptoms of maladjustments and other difficulties in the child's physical, mental, or moral development. This conception of community responsibility in regard to juvenile delinquency is comparatively recent. The adequate fulfilment of this responsibility will result in the prevention of a considerable amount of juvenile delinquency and in the subsequent reduction of the number of children who come before the courts. It can be accomplished only by creating an informed public opinion, an individual responsibility, and an intelligent community action.

The community responsibility naturally corresponds to the fundamental rights of childhood, which are generally taken to include normal home life, opportunities for education, vocational preparation, and moral, religious, and physical development in harmony with high ideals of life. The fulfilment of this responsibility requires that the community must provide for its youth clean civic conditions, proper housing, adequate policing, good school facilities, and industrial or other training that is necessary to meet modern life. It also requires that means must be provided for supplementing family resources and preventing family breakdown, and that recreational facilities should be available to provide wholesome activities as an energy-outlet.[1]

2. *JUVENILE COURT IN A COMMUNITY PROGRAM*

The juvenile court stands for both prevention and cure. Of all the community agencies it is in the most advantageous position to take part in the preventive and constructive work directed against the ultimate causes of delinquency. The court, however, has its own limitations. The court itself does not specialize in health work, material relief, vocational guidance, improvement of civic conditions, recreation, education, child-placement, institutional care, conservation of family life, and moral and ethical training. It cannot assume the whole responsibility for preventive, protective, and constructive work, lest it result in the neglect of its own immediate field of duties. It should clearly see the possibility of coöperation with existing agencies. It can best serve the community by constituting itself a "clearing house," and by leading and coördinating the community forces for child protection and constructive work with families.[2]

It should be remembered that the history of the juvenile-court movement in this country is chiefly one of continuous coöperation between public and private agencies. The establishment of the court itself is, in many instances, the result of the efforts of various social or civic organizations, especially women's clubs. The value of probation work, detention, and child-study, which are now usually carried on by the court's regular organization, was first recognized and demonstrated by private initiative and efforts.

In the immediate field of its own work, especially in the probation work, the court must depend upon the coöperation of the available resources of the community, official departments, public and private agencies, and individuals. Reference has been previously and constantly made to the relation of the court to official departments, such as police, other courts, school departments, advisory boards, child-caring agencies and institutions, and state boards and commissions, and to other social agencies, in the study of the case and the child, in the detention of children, in the informal adjustment of cases, in the methods of probation, and in other phases of the administrative work of the court. The coöperation with official departments is often authorized by law, but usually it is given on a voluntary basis.

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[1] *Cf.* Katharine F. Lenroot and Emma O. Lundberg, "Juvenile Courts at Work," U. S. Children's Bureau, *Pub. 141*, pp. 225-226.

[2] *Ibid.*, p. 225.

It is obviously impossible for the court to stand apart from the organized agencies in the community, whose work touches any of the many forms of human activities. The very nature of the task which falls to the court forces it into close relationship with other social agencies. In the absence of such agencies, as in small towns or rural districts, the court, through its probation officers, must even initiate community activities or else find for itself means of meeting various types of needs. The work of the court would be greatly hampered if the community which it intends to serve lost confidence and interest in its work and failed to give active coöperation and support.

3. *THE COURT AND THE HOME*

The technique of the probation officer's work in relation to school, home, and other factors which make up a child's life has already been touched in discussing the methods of probation.[1] But in order to make the preventive and constructive work really effective, the coöperation must be translated into a community movement which forces back the responsibility upon all social groups and agencies.

The child, like every other person, lives not in one environment, but in many. Every contact is a new environment. Every group—the home, the school, the church, the street gang—is an environment for the growing child. Each gives attitude, experiences, habits, and behavior, but two of these agencies stand out most prominently, that is, the home and the school. The home and the school are the two most important social groups which the child daily meets, and it is largely from contact with these groups that he builds up emotional attitudes and habits of behavior. Therefore the efforts of the preventive and constructive forces should be first directed to the adjustment of the child in his home and school life.

The home, the family group, the basic unit of modern society, is important in the making of the child's character, because it is the earliest, the most persistent, the longest in time, and the widest in range of any of the many influences that touch the child's life and mould his plastic nature. It begins with the cradle and extends to maturity. It furnishes, on a small scale, practice in the art of living together. Often, however, ignorance, depravity, poverty, indifference, antagonism, and the broken home—one or all of these factors may make it impossible for the home to function properly.

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[1] *Supra*, pp. 155-159.

The influence of the home in the production of juvenile delinquency is most emphasized. In a large number of instances, juvenile delinquency is traceable to home influences, and, more particularly, to the influence of the parents. The parent needs to set the stage in such a way that the maximum opportunity for the unfoldment of the child's personality along the necessary lines of social conformity will be insured. Juvenile delinquency, such as that with which the courts deal, is often involved with the broken or defective home which is unable to perform this important function. Such a home is less efficient in developing and directing the normal desires and aspirations of children than the home in which both parents are working together to fulfill their responsibilities toward their children. A significant fact is the increasing number of broken homes and the large percentage of children, especially girls, who come to the courts from these homes. It has been estimated that forty years ago only one out of seventeen marriages ended in the divorce court; today, one in seven seek this court. Recently the United States Bureau of the Census issued a report on marriage and divorce for the year 1924, in which it was pointed out that in 60,028, or 35.7 per cent, of the 1924 divorces, which numbered 170,952, children were involved; and the total number of children involved was 109,105 or 1.8 per case.[1] The consequence is an increasing number of children falling within the status described as that of dependency or neglect and possibly delinquency with all the socially dangerous relationships created thereby. An analysis of all the delinquency cases coming before the courts in Chicago, Cleveland, Denver, Kansas City, Los Angeles, Minneapolis, and Philadelphia in a year—involving 10,845 children—shows that forty per cent came from homes in which death, desertion, divorce, or separation of the parents had disrupted the family.[2] The estimates of the authorities vary, but there appears little doubt that from forty to seventy per cent of delinquents come from broken homes, as would be expected in view of the fact that approximately twenty-five per cent of all children in the United States live in homes broken by death, desertion, separation, or divorce.[1] A further analysis of delinquency cases would undoubtedly show that a large percentage come from defective homes in which can be found neglect, cruelty, depravity, immorality, alcoholism, lack of parental control, unwise restraint, excessive quarreling, the absence of the mother from the home because of employment, or other abnormal conditions in the home. Broken homes are almost invariably defective. It was estimated that nine-tenths of the delinquent girls and three-fourths of the delinquent boys who reach the Chicago juvenile court come from "bad homes," that is, homes either broken or defective.[2]

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[1] See U. S. Bureau of Census, "Marriage and Divorce: 1924," (1926).

[2] Lenroot and Lundberg, *op. cit.*, p. 236.

Another serious problem connected with the home is presented by children born out of wedlock. When we consider that there are approximately 60,000 illegitimate births in the United States in a year,[3] we realize at once the seriousness of the problem. That illegitimacy is an important factor to be taken into account in considering the causes that underlie juvenile delinquency, dependency, and neglect is a generally recognized fact. It is largely a question of the lack of proper guardianship and wholesome surroundings.

It is the duty of the juvenile court to see that the maladjustment in family life which produces juvenile delinquency and other abnormalities is reached before conditions get so bad that the children or the family are brought to court. The community resources should be mobilized for preventive and constructive work with the family and the family, in turn, should be taught to assume its own responsibility to the community.

4. *THE COURT AND THE SCHOOL*

The school stands in a position no less strategic in the prevention of juvenile delinquency than that of the home. From the point of view of prevention the school is preëminently in a position of vantage in detecting maladjustments which indicate neglect and delinquency, and in dealing with conduct difficulties before it becomes necessary to bring the child to court. The symptoms of maladjustments can be detected through poor scholarship, irregular attendance, indifference of parents, conduct which points to bad mental habits or unwholesome interests, or through rumors of undesirable friendship, of unwise recreation, of overwork, or of illegal employment. The school must equip itself to face its responsibility and call to its aid other social agencies.

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[1] *Cf.* the following authorities on this point: T. E. Sullenger, "Summary of a Study of the Juvenile Delinquent in Omaha," *University of Omaha Bulletin*, December, 1924; E. H. Shideler, "Family Disintegration and the Delinquent Boy in the United States," *Jour. Crim. Law*, 8:715, January, 1918; Eleanor H. Johnson, "The Relation of the Conduct Difficulties of a Group of Public School Boys to Their Mental Status and Home Environment," *Jour. Delinq.*, 6:560, November, 1921; M. C. Elmer, "The Juvenile Delinquent in St. Paul, Minnesota," St. Paul, 1926, p. 17; F. G. Bonser, "School Work and Spare Time," Cleveland Foundation, 1918, pp. 32-33; Viva B. Boothe: "Criminality and the Home," *Annals Amer. Acad.*, 125:192-200, May, 1926; Wm. Healy and Augusta F. Bronner, *Delinquents and Criminals; Their Making and Unmaking*, pp. 263-264.

[2] Sophonisba P. Breckinridge and Edith Abbott, *The Delinquent Child and the Home*, pp. 74, 105.

[3] Emma O. Lundberg, "Children of Illegitimate Birth and Measures for Their Protection," U. S. Children's Bureau, *Pub. 166*. p. 7.

The equipment of school departments for prevention of misconduct and delinquency is in the direction of socialization. The orthodox method used by schools to deal with truant or incorrigible children is to commit them to truant or parental schools. The children may be sent to these schools either by the court or, with the consent of the parents, by school authorities. At present, in a number of cities, special day schools or special classes for truant or incorrigible children, as well as for backward and defective ones, take the place of or supplement parental schools. Many commitments to parental schools can thus be avoided, and there is a better adjustment of school life to the needs of individual children. In place of the old detective type, the employment of a new type of truant officer, trained in social work, and well equipped to deal with non-attendance and other social difficulties, and the employment of visiting teachers or other social workers, who become familiar with home conditions and deal with conduct problems, are distinct signs of progress during recent years on the part of the school in assuming the responsibility for prevention of juvenile delinquency. School departments are assuming more and more not only the work with regard to backwardness, truancy, and other conduct difficulties, but also to such activities as vocational guidance, mental hygiene, continuing school census, juvenile placement, the issuance of employment certificates, the regulation of street trades, the supervision of boys on parole from the parental school, and the responsibility for special schools. [1] These various socializing influences will undoubtedly tend to lessen juvenile delinquency.

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[1] *Cf.* Lenroot and Lundberg, *op. cit.*, p. 230; Dorothy Wallace, "Problem of the Quasi-delinquent in the School," *Mental Hygiene*, 8:115-165, January, 1924.

The types of problems dealt with by school-attendance departments in relation to the juvenile court include truancy or non-attendance, anti-social conduct, malicious mischief, matters of dress and fashion, illegal employment, sex immorality, and special cases of maladjustment. Truancy is usually believed to be essentially a school problem and as such should be handled within the school system itself. Reference of truancy cases to the court is not very frequent except in serious cases when commitment is advisable. In general, the school department does not handle those conduct problems which do not affect the school. When it does deal with conduct difficulties, it handles them in an informal way, in the spirit of social case work, except in serious cases, when the authority of law is to be invoked for a change of custody of the child. In some places the attendance officer of the school department supervises school children placed on probation by the court and does parole work for parental schools

The most interesting and promising of all the recent efforts within the educational system toward socializing the schools, especially as they affect delinquency, is the visiting-teacher movement. The program of the visiting teacher is very similar to that of the probation officer, for both have as their common purposes the study of personality problems and the attempt at their solution.

The visiting-teacher movement began in 1906 and 1907 and was introduced almost simultaneously in New York, Boston, and Hartford, where workers of this type were placed in the school systems by outside volunteer agencies. The experiments proved so successful that the movement spread gradually to a number of other progressive communities. To hasten this development, the Commonwealth Fund in 1921 decided to include in its Program for the Prevention of Delinquency the placing of visiting teachers in representative communities through a National Committee on Visiting Teachers so as to demonstrate comprehensively the possibilities inherent in this work. In 1925 there was a total of 186 visiting teachers, including those on the staff of that committee, in 64 cities and 6 counties in 34 states.[1]

The justification of the visiting-teacher movement is found in the fact that to educate the whole child the school must see the child as well as the pupil—it must know the child's life during the eighty-eight per cent of his time which he spends outside of the school during the eight years of his elementary education. The roots of the child's difficulties extend beyond the walls of the school and adjustments must be made in home, neighborhood, and back alleys of the community. It goes without saying that to deal successfully with its complex problems, the school must share the spirit and vision and secure the full coöperation of many existing forms of social work.

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[1] H. W. Nudd, "The Purpose and Scope of Visiting Teacher Work," in *The Problem Child in School,* by Mary B. Sayles, pp. 253-280; Commonwealth Fund Program for the Prevention of Delinquency, *Progress Report 1925,* pp. 8, 32; J. J. Oppenheimer, *The Visiting Teacher Movement,* especially ch. 1.

The visiting teacher stands in a unique position in the extra-mural activities of the school system. Her province lies outside that of the regular teacher, the attendance officer, and the school nurse, although, like the latter two, she goes into the child's home. With her outlook, training, and experience, as both a teacher and a social case worker, and with her knowledge and understanding of the behavior and personality problems of children, she stands ready to assist the school in adjusting the needs of those individual children who present problems of attendance, scholarship, or conduct, or who show signs of neglect or other abnormalities, which the regular staff of the school finds itself unable to understand or to deal with unaided. Unless early adjustment is made, such children not only miss the opportunities the school affords, but may drift from bad to worse, arriving only too frequently at the juvenile court or some other correctional agency. The visiting teacher, in turn, must draw into fullest coöperation all social agencies, both public and private, within and without the school system, which deal with health, recreation, employment, child study, family welfare, education, and protective and corrective work in general.

Methods which the visiting teacher uses vary from case to case and with her tact and resourcefulness. Usually she receives reports from the regular school teacher regarding attendance, scholarship, misconduct in school, and other difficulties. On the basis of these reports she makes an investigation of the home and the neighborhood situation, with the purpose of tracing the difficulty to its source and discovering the need of advice or adjustment on some important phase of life. To the school she interprets the child's environment, his special difficulties, and needs, while to the parents she makes clear the aims and requirements of the school and the needs of their children. She works out with the teacher a plan of adjustment to meet newly found situations, and, for the purpose of carrying it out, she makes use of such agencies, social, clinical, psychiatric or other, as may be necessary. If the visiting teacher is a socially trained person who understands the forces in the community that affect the child for good or evil, making the necessary adjustments between the school, the home, and the neighborhood and overcoming the obstacles presented by the child's own personality, much in the way of preventing juvenile delinquency and other abnormalities may be looked for and the child may thus be enabled to develop his potentialities.

A program of coöperation between the visiting teacher and the juvenile court has been worked out in some communities. In Rochester, New York, for example, one visiting teacher is assigned from the visiting-teacher department to act as representative of the department in its relationship with the juvenile and other courts and with the Society for the Prevention of Cruelty to Children. She serves as a link between the school and the court, presents the point of view of the department at court hearings, and makes constructive adjustments in school and home that will lessen the likelihood of a repetition of the court experience. While the visiting teacher does not hesitate to take legal action when that seems logical, especially in cases of neglect and improper guardianship, she devotes her main effort to making such action unnecessary. Hence, in only a small number of cases does it become necessary to resort to the juvenile court. When she does refer cases to the court, she usually does this through the medium of the attendance department or the Society for the Prevention of Cruelty to Children, and she herself rarely appears as a complainant. On the other hand, the juvenile court also makes it a practice to refer children to visiting teachers. In Rochester there has developed a practice of reporting at once from the juvenile court and the police department to the visiting teacher any girls of school age who appeared before the court or who were found by the police in questionable places.[1] In many communities this coöperation is lacking.

For the development of school facilities and methods for effective prevention of juvenile delinquency, the school must be adequately equipped, organized, and directed. A socialized school department, under the name of "department of adjustment" or "educational council" or "home department," may be established as a centralized agency for treatment of truancy, misconduct, and behavior maladjustments developing in school life. This department, to which attendance officers, visiting teachers, and other compulsory education workers should be assigned, and through which administration of special schools for children should be centralized, should be in charge of a well trained social worker. It must have access to expert medical, psychological, and psychiatric services, even if it wishes to handle only a small part of the delinquency that occurs among school children. In brief, a well-articulated social program of school for the prevention of juvenile delinquency should include the trained visiting teacher, the socially-minded attendance officer, the plastic curriculum, the special school to meet individual needs, provision for scientific diagnosis and treatment, coöperation with other social agencies, proper placement of children in school work, vocational guidance, a growing respect for the child's personality, and an adequate sex hygiene program to establish a rational attitude toward sex.[1]

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[1] *Cf.* Mabel Brown Ellis, *The Visiting Teacher in Rochester: Report of a Study*, pp. 42, 61, 101, 103, 176, 178.

5. *THE COURT AND OTHER SOCIAL AGENCIES*

The recognition of the possibility of utilizing the unofficial agencies in the work of preventive justice by tribunals is comparatively recent. While recognizing that juvenile courts have done much "incidentally" in the way of preventive activity directed to the ultimate causes of delinquency, Dean Pound stated:

> In effect, what there is in the way of preventive justice, in the domain of the criminal law, is achieved not by legal but by extralegal agencies. It is done, for the most part, not by the agencies of the law, but by social workers.[2]

In order to make justice really preventive rather than punitive, and to accomplish something in the way of individualization of treatment, a challenge goes out for a genuine spirit of team-work between judicial tribunals and the extralegal social agencies which are better equipped to make experiments in many fields of human activities and to utilize knowledge and skill that the modern sciences have contributed.

While it may not be contended that any social agency can replace the properly directed influences of the home and the school, it must be insistent that with the failure of the influences of both of them, the preservation of our social order and the improvement of our fellow-men demand the development of other agencies sufficient in strength to overcome the destructive effects of the anti-social forces. Therefore, all the community resources, besides the home and the school, should be mobilized to combat the situation in the way of preventive justice.

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[1] *Cf.* Van Waters, *Youth in Conflict*, p. 267; Lenroot and Lundberg, *op. cit.*, p. 244.

[2] Roscoe Pound, "Preventive Justice and Social Work," *Proc. Natl. Conf. Social Work*, 1923, p. 159.

Statutes in some states provide specifically for coöperation between the court and other social agencies in the community. Obviously such a provision is merely suggestive. Legislation can accomplish very little in this. The tendency on the part of the court is to establish a real basis of coöperation with all agencies connected with the welfare of the child, whether there is such a provision or not.

In better organized courts, and in courts where coöperative agencies are available, every constructive agency that can help the child is used, depending upon the individual needs of the child and his family, whether the need be one of providing ethical or religious training, medical treatment or supervision, recreational activity, employment, vocational guidance, financial relief, legal aid, helpful companionship to fill a social need, or any other form of constructive assistance. Both special and general agencies, such as the social-service exchange, mental clinics, family welfare societies, churches, schools, universities, clubs, settlements, recreational agencies, health agencies, hospitals, relief agencies, employment bureaus, child-placing agencies, child-protective societies, civic organizations, the Salvation Army, Big Brother and Big Sister associations, and many others, the names of which are almost endless but which touch almost every side of the child's life—all these are utilized in one way or another by almost all juvenile courts.

This community program requires a technique of coöperation. It depends not only upon the existence of social agencies but also upon their ability and their willingness to coöperate and to carry through plans initiated by officers of the court. It requires the correlation of the probation systems with the social agencies, and the coördination of the social agencies themselves in order to do real team-work in the social service field. The juvenile court cannot carry out its plan of social treatment unless it enlists combined forces of home, school, church, and all other available organizations working under skilled leadership for a well defined common goal. These agencies should recognize and assume their proper responsibilities and let themselves be understood and utilized by the court, which in turn must let itself be understood and used by them. A better understanding and coöperative spirit is absolutely necessary for any program of preventive and constructive work in a community.

When all other agencies have failed to prevent, or have failed to care for, delinquency, dependency, neglect, and other abnormal conditions of children, the juvenile court, representing the state as *parens patriæ* of the child, must step in to assume its protective functions. In doing so, it must recognize its own limitations, its proper functions, and its place in relation to the other agencies of the community dealing with problems affecting family life and the welfare of children. The more the court becomes socialized, the more it must depend upon the coöperation of all organized forces of the community.

Chapter X

THE FUTURE OF THE JUVENILE COURT

Twenty-eight years of the juvenile-court movement afford us a retrospect of both its success and failure. It is inevitable that an institution as complex as the juvenile court should develop in various ways in different localities and should attain varying degrees of success. It cannot find its final form in a quarter-century and a little over. What form it will take in the distant future we do not venture to prophesy. However, one point is clear. By whatever name we may call it, and whatever may be its future functions, the "idea" of the juvenile court will be preserved in one form or another for years to come, because this institution is grounded upon a sound philosophy.

Nevertheless, if we can read the signs of the time, there are several significant tendencies in the juvenile-court movement which will eventually shape the future of the juvenile court. These tendencies are: (1) the extension of juvenile-court organization to rural communities, (2) the supervision and standardization of juvenile-court work, (3) the development of psychiatric clinics for children, and (4) the evolution of the family-court idea. An appraisal of the juvenile court, especially as to whether it should be merged into some public agency or whether it should remain a court of social justice for the care and protection of children, will conclude this book.

1. *THE EXTENSION OF JUVENILE-COURT ORGANIZATION TO RURAL COMMUNITIES*

One of the significant tendencies of the juvenile-court movement is the extension of juvenile-court organization to small towns and rural communities. In the first decade of the movement, juvenile-court organization was mainly dedeloped in the larger cities. Its extension to small towns and rural communities is a recent development and largely a question for the future. In some states rural courts, dealing with children's cases, have been greatly improved within the last ten years. The recent development has been notable, especially in certain southern states, mostly rural, which have provided for juvenile courts and probation for the first time. During the last decade many of the states which have established the juvenile courts only in one or two large cities at the beginning have extended their systems to the entire state. Although the extension of juvenile courts to rural communities is, in most cases, on paper only, the importance of this extension is slowly but more or less steadily being recognized.[1]

According to the 1918 survey made by the United States Children's Bureau, by 1918, in 22 states, two-thirds or more of the courts having jurisdiction over children's cases served only rural areas under 5,000 population, nine of these states having within their boundaries no large or medium-sized cities.[2] Many of the courts serving cities of specified sizes served also smaller cities and rural areas. Ninety per cent of a total of 2,391 courts addressed in the course of that survey served areas in which there was no city of 25,000 or more inhabitants.[3] Therefore, the problem of court organization for small towns and rural communities is a very real one.

Juvenile courts in rural communities demand special consideration with reference to organization, probation, detention of children, and physical and mental examinations, for they present many problems for solution which are different from those in urban districts. Courts in large cities have been more successful than courts in small towns or rural communities, for the former have better organization, better facilities, and better community resources. But juvenile delinquency is not peculiarly a problem of the cities. The child from the village or rural community has an equal right with the city child to be protected rather than punished. Though great improvement has been made in recent years, in many places he is still subject to the unsocialized court procedure that the juvenile-court movement was designed to replace. Lack of an adequate probation service, the absence of any method of detention other than confinement in jail, failure to make physical and mental examinations, failure to provide a method for recording and utilizing the facts gathered, judges who are not well qualified for the work and who fail to grasp its fundamental principles, unnecessary publicity of hearings, lack of community coöperation—one or more of these or other defects in organization are frequently found.

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[1] A rural community is roughly used to designate a locality of small and dispersed population, depending mainly upon agriculture for its livelihood, or an area containing no city or town of 5,000 population or over. The following discussion is equally applicable to small cities, towns and villages with population of 5,000, but less than 25,000, which for our purpose may also be classified as rural.

[2] "Large city" has been taken to mean a city having a population of 100,000 or more, "medium-sized city" a city of 25,000 but less than 100,000 population.

[3] Belden, *op. cit.*, pp. 11-12.

The first important problem to be solved is the organization of the court itself. If rural children are to come within the protection of the most advanced legislation, they must necessarily be within the jurisdiction of a court which can and will specialize for their care. The inadequacy of justices of the peace and ordinary criminal courts to handle children's cases has been generally admitted. The establishment of the county-wide or district-wide juvenile court, tied up with some existing court, seems to be the best solution of the problem, for the expense and the amount of work usually do not justify the establishment of a separate court. But if the court with one rotating judge and no substitutes serves a large county or district, there may be uncertainties as to time and place of hearings. Moreover, if the county juvenile court sits in a large city, though it has jurisdiction over the entire county, much of the rural work may be neglected. This inconvenience of access to the court from outlying districts may be met by authorizing a county or district juvenile-court judge to hold court in any part of the county or district and to make a circuit of that area at regular periods, or by dividing the courts to which juvenile jurisdiction is given by assigning one part of it to rural areas for children's cases and sending it on circuit. It may also be met successfully by the appointment of one or more competent referees, who could promptly hear cases in the absence of the judge, in different parts of the county or district, subject to review by the judge in cases where an appeal is made from the referee.

The second problem to be solved is the development of an organized and unified probation service. A county-wide or district-wide staff of probation may serve the entire county or district, even if children's cases may be heard in different courts in the same area. In smaller communities, if there is not work enough to occupy the full time of more than one probation officer, one officer can be used to take care of adult as well as juvenile probation, including the mothers' aid work, if there is any. The law should also make possible such arrangements as are now made in some rural communities for combining probation work with that of attendance officer, child-labor-enforcement officer, secretary of a family or child-welfare agency, and the like. In Michigan the county agent for dependent children automatically becomes probation officer if no other person is appointed for the county. This arrangement is satisfactory if he gives enough time for juvenile-court work and has fewer other duties, which usually include those of county superintendent of schools, probation and parole officer for adults, truant officer, friend of the court, caretaker of the court house, and various kinds of private business. In North Dakota the juvenile commissioner and in Utah the superintendent of schools usually act as probation officers when so appointed. In North Carolina a satisfactory combination is found in the authorization of the appointment of the county superintendent of public welfare, who is also superintendent of schools, and is responsible for the enforcement of the child-labor law, to act as chief probation officer for the county juvenile court. In Missouri, in counties of less than 50,000, the county superintendent of public welfare has the duty of supervising children placed on probation when so requested by judge of juvenile court. Such a combination of duties may, in many a county, justify the full-time service of a well qualified person, when for each separate form of service no adequately prepared person could be afforded.

In rural communities lies perhaps a greater and more hopeful field for successful work by volunteer probation officers than in cities. Owing to the difficulty in securing adequate regular probation service and the inconvenience in having probationers report, volunteers may well be used to do the work under the direction of one paid trained probation officer. The extent to which courts handle cases informally, through the chief probation officer or other member of the staff, is also especially suggestive of possibilities in rural communities, where there is likely to be a long delay before a case can be heard formally by the judge.

The third problem to be solved is that of detention of children. In cases when a child cannot be properly cared for in his own home while awaiting court action, a place for his detention, separate from jails, is as important in rural communities as in large cities. In rural communities the simplest and the most practical method appears to be to make arrangements for temporary detention of juveniles either in some existing institution for children or in some specially selected and supervised family home. It is also often possible to rent or purchase a dwelling house and adapt it to the use of the county for this purpose. This plan, adopted in many cities, could easily be adopted in rural communities.

The fourth problem is how a program of physical and mental examinations can be worked out in relatively rural communities. For rural communities, facilities for study of the child may be provided through the development of centers in urban communities or through traveling mental clinics under the auspices of the state boards or commissions or institutions. Through the coöperation of the state board of health, the county health officer, the county clinic, the superintendent of public welfare, the superintendent of education, and public-spirited physicians, physical examination and follow-up treatment of the child may always be had.

Lastly, the needs should be effectively met by community coöperation. The existing social agencies, such as the school, the church, and, most important of all, the families to which the children belong, have important functions to perform in assisting the juvenile court in eliminating delinquency, dependency, and neglect of children. In every county there should be a legal or an extra-legal advisory board of citizens to coöperate with the judges and probation officers in securing progressive efficiency in the social work for children and adults in the county. In places, as in some counties of Alabama, where county boards of public welfare serve as juvenile-court advisory boards, and in states where county boards of child-welfare have been created, such boards might suffice. In counties where the law provides for no such boards, it is wholly within the power of the interested judges to create such an advisory group by personal request and appointment.

The various plans for extending and organizing the juvenile court in the rural communities have their merits and demerits. No general principles can be laid down, for their actual application must be determined according to the local conditions and local needs of particular states.

2. *SUPERVISION AND STANDARDIZATION OF JUVENILE-COURT WORK*

In the past few years we have witnessed a remarkable movement for supervision and standardization of juvenile court and probation work. In general, the existing system of probation puts complete control in the hands of local authorities, and, therefore, divergencies of local use and practice are inevitable. The increasing use of probation during recent years in the juvenile field has made some kind of supervision of the work and standardization of methods a necessity. This movement, both state-wide and nation-wide, cannot fail to contribute greatly to the improvement of the court as to its organization, personnel, administration, case work, and legislation.

State supervision of probation service has been exercised for a number of years in Massachusetts and New York. In Massachusetts, state supervision of probation has been exercised by the prison commissioners from the time the first state-wide probation law was enacted in 1880 until an independent commission on probation was established in 1908. The first independent probation commission, however, was created in New York in 1907. These commissions have been large factors in the remarkable extension and development of juvenile court and probation work throughout these two states.[1] The New York State Probation Commission carries on local campaigns to introduce and extend probation work, makes investigations and recommendations concerning the work of individual courts, publishes record forms and educational pamphlets, aids in conducting civil-service examinations, holds conferences of probation officers, and performs many other services. The Massachusetts commission performs many similar services and, in addition, maintains a central record of cases known to the courts of Boston and vicinity and certain other important districts of the state, in order to make the work much better coördinated and intelligent. Both commissions have done much to secure legislation, appropriations, and public support for juvenile courts and probation work generally. Their work has been especially important in developing better standards and greater uniformity of methods. They have rendered great educational aid in bringing up to standard backward courts and communities, to which the work cannot be extended except through state backing. Within the past few years state supervision for all probation work has been adopted in Connecticut, Indiana, North Carolina, and Virginia, and for juvenile probation work in Alabama, Georgia, and Pennsylvania.[2]

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[1] Since January 1, 1927, the New York State Probation Commission became the "Division of Probation" of the State Department of Correction, and jurisdiction was given to it to make recommendations regarding the operation of children's courts and to collect statistical information regarding them.

[2] F. H. Hiller, *Probation in Wisconsin*, p. 41.

Another interesting phase of state promotion of juvenile courts and probation is seen in the marked development of coöperation in juvenile-court work by state departments and county public welfare or child welfare agencies. In some states, either independent child welfare bureaus or child welfare divisions within the state departments of public welfare or boards of charities or similar bodies have been created. The development of the system of county organization for child care and protection in Minnesota, North Carolina, Missouri, and Virginia, is of special interest, for the county boards of public welfare or child welfare, in addition to dealing with local problems, also act as local representatives of the state board or department.[1] The main purpose of the coöperation of these agencies is to raise the standards of juvenile-court work, to provide a means for extending juvenile-court organization to rural communities, and to develop community coöperation in general. Services rendered by them to the juvenile court vary in different states, but, in general, they include securing probation officers, placing out children, and supervising child-caring agencies and institutions. Such work is in progress in Alabama, California, Georgia, Minnesota, Missouri, Nebraska, North Carolina, Pennsylvania, and Virginia.[2]

The movement for promotion and standardization of juvenile-court work and probation is not confined to state agencies. There are many national agencies engaged in promoting and standardizing the juvenile court and probation work, but two of these stand out prominently, namely, the National Probation Association and the United States Children's Bureau. Most of the other national agencies deal only with some special phase of the work, especially its clinical aspect. The National Probation Association has been active for a number of years not only in conducting state and city surveys, in holding conferences, and in disseminating information and literature to educate the public as to the needs for better organized social court work, but also in carrying on local and national campaigns to extend the probation system and to secure better standards of case work, more thorough organization in social courts, and needed legislation. The passage of the Federal Probation Law in 1925 was due chiefly to the persistent efforts of this organization. Its annual proceedings constitute a wealth of information on the problems and progress of juvenile courts and probation. The Children's Bureau of the United States Department of Labor since its establishment has made a series of studies of the methods and organization of juvenile courts and the problems of juvenile delinquency and have published a number of valuable reports on those subjects.[1] It has no power to do constructive work in any given community and its invaluable service is mainly educative. The 1919 Conference on Child Welfare Standards held under the auspices of the Children's Bureau adopted resolutions relating to juvenile courts.[2] In 1921 a conference on juvenile-court standards was held under the joint auspices of the Children's Bureau and the National Probation Association.[3] As a result of this conference, a committee on juvenile-court standards was appointed as an advisory committee to the Children's Bureau to aid in the development of standards, particularly in the administrative aspect of the juvenile-court work. This committee, after two years' work, submitted its final report to the 1923 conference of the National Probation Association, which adopted it.[4] Following the adoption of these standards, a committee on standard juvenile-court laws was appointed by the National Probation Association to draft a standard juvenile-court law. A tentative standard juvenile-court law, chiefly based on these standards, was submitted and approved at the 1925 conference of the Association.[5] It has been put into a form which might be taken and easily built into the constitutional statutes with a small amount of adaptation, and it is hoped it will do much toward bringing uniformity into the present confusion of juvenile-court legislation in this country.

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[1] U. S. Children's Bureau, *Report 1924*, pp. 17-18.

[2] U. S. Children's Bureau, "County Organization for Child Care and Protection," *Pub. 107*.

Along with the state-wide and nation-wide movements for supervision and standardization of juvenile-court work, the growth of the movement for the coördination and revision of child-welfare legislation following a comprehensive study of the conditions surrounding children in a given state is one of the most forward-looking developments in the child-welfare field in general, and in the field of the juvenile court in particular. This movement, in which the District of Columbia and thirty states have taken part since 1911, when Ohio first created a children's code commission or, as it is termed in some states, child welfare commission, has a background of interesting history which includes the British Children's Act of 1908, sometimes referred to as the "Children's Magna Charta," and the White House Conference on the Care of Dependent Children called by President Roosevelt in 1909, which urged, among other things, the unification of the laws relating to dependent children.[1]

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[1] See Grace Abbott, "Ten Years' Work for Children," *U. S. Children's Bureau*, 1923; J. A. Tobey, *The Children's Bureau*, p. 29.

[2] U. S. Children's Bureau, "Minimum Standards for Child Welfare," *Pub. 62*, 1920, p. 14.

[3] U. S. Children's Bureau, "Proceedings of the Conference on Juvenile-Court Standards," *Pub. 97*, 1922.

[4] U. S. Children's Bureau, "Juvenile-Court Standards," *Pub. 121*, 1923. It is published as Appendix I at the end of this book.

[5] For the bill with a brief in the form of notes prepared by Francis H. Hiller see *Proceedings of the National Probation Association*, 1925, pp. 192-222. The text without notes is published as Appendix II at the end of this book.

The principle, the purpose, and the method of revision of child-welfare legislation were well outlined in and included among the "Minimum Standards for Child Welfare," adopted by the 1919 conference on child-welfare standards referred to above.[2] Its chief purpose is to standardize and to coordinate the existing laws and administrative agencies relating to children and to recommend the establishment of laws and administrative agencies covering aspects of child welfare that have been neglected in statutes. This movement will contribute greatly to the improvement in child-welfare legislation and correlate all aspects of child-welfare legislation with juvenile-court laws.

3. *DEVELOPMENT OF PSYCHIATRIC CLINICS FOR CHILDREN*

Perhaps the greatest and the most outstanding contribution of the juvenile-court movement is the associated development of children's clinics for the scientific study and understanding of personality problems and problems of conduct and behavior, and psychological situations in relation to both causation and preventive treatment. The child's life, reactions, emotional trends, mental habits, and previous experiences must be understood if the trouble resulting in delinquency is to be corrected in a constructive way. If we look into the future of the juvenile-court movement, it appears that the development does not lie along the line of material efficiency, nor better organization, as it has been in the past, but depends on a better understanding of the child himself, the human material with which the court deals. This shift in emphasis from what was at best an intuitive process on the part of the court to the painstaking scientific inquiry of the psychiatrist is one of the remarkable achievements of a quarter of a century.

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[1] Emma O. Lundberg, "State Commissions for the Study and Revision of Child-Welfare Laws," U. S. Children's Bureau, *Pub. 131*. E. N. Clopper, "The Development of the Children's Code," *Annals Amer. Acad.*, 98:154-159, November, 1921. See also Kentucky Children's Code Commission, *report* for 1922, and Iowa Child Welfare Commission, *report* for 1924.

[2] "Minimum Standards for Child Welfare," p. 16.

The importance of psychiatric study of delinquents had been felt during the first decade of the Chicago juvenile court; hence, the Institute of Juvenile Research, connected with that court. This institute, known at first as the Juvenile Psychopathic Institute, was organized in 1909, under the direction of Dr. Healy, through a gift from Mrs. William F. Dummer. In 1914 the institute became a regular department of the court under county auspices, and later, in 1917, it became a state organization, continuing to render its service to the Chicago court in return for some contributions from the county. In 1920 a change was made to its present name. It was out of the vast amount of case material accumulated by Dr. Healy and his associates that Dr. Healy published his epoch-making book, *The Individual Delinquent*, in 1917, and some other monographs, [1] which have not only influenced the scientific thought of the world but have also had their effect upon education, social work, and judicial procedure, particularly in connection with juvenile courts.

The work in which Dr. Healy pioneered has flowered beyond all forecast. Numerous similar institutions were established during the last decade. The Judge Baker Foundation in Boston, in which the memory of Judge Harvey Humphrey Baker is now perpetuated, opened in 1917 as a private institution and has been connected with the Boston juvenile court from its beginning. Dr. Healy continued his work in this foundation. By this time similar institutions were established in Detroit, Los Angeles, New York, Philadelphia and White Plains in direct connection with juvenile courts. Many other juvenile courts use the service of a children's clinic or a psychiatrist from outside the court.

In 1921 a new movement of national importance was started with the publication by the Commonwealth Fund of New York of its Program for the Prevention of Delinquency and the establishment of the demonstration psychiatric clinics in a number of cities to serve the juvenile courts and other agencies. Through a special gift from the Commonwealth Fund and as a part of its Joint Committee's

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[1] These are "Pathological Lying, Accusation, and Swindling," 1915; "Honesty," 1915; "Mental Conflicts and Misconduct," 1917.

Program for the Study of Methods for Preventing Delinquency, the National Committee for Mental Hygiene has created a new department known as the Division on the Prevention of Delinquency, one of its activities being to furnish psychiatric service to a limited number of communities giving certain guarantees, and to serve the juvenile courts and other agencies in those communities. Accordingly, child guidance clinics, with their staffs of psychiatrists, psychologists, physicians, and social workers to diagnose and treat the problem child, have been established in various parts of the country.

The Commonwealth Fund Program gave a tremendous impetus to the psychiatric-clinic movement. Since 1921 more than a dozen other children's clinics were started, the most important of which were those in Asheville, Cleveland, Dallas, Los Angeles, Memphis, Minneapolis, Newark, Richmond, St. Louis, St. Paul, and San Francisco. Some of these clinics were opened after demonstrations under the Commonwealth Fund Program.[1]

In view of the fact that by 1918 there were 2,391 juvenile courts or rather courts hearing children's cases in the United States according to the survey made by the Children's Bureau in that year, and that their number at present must be considerably larger than it was at that time, the number of children's clinics properly equipped for the scientific study of individual delinquents is extremely small indeed. The facilities are very limited and trained persons are scarce. The movement, however, is very promising and its importance is being well recognized. Even this beginning will do much toward placing the work of such courts, in which such services are available, on a sound and scientific basis and will not fail to influence other courts in the not far distant future. The movement will undoubtedly contribute to a better understanding and treatment of problem children and result in the subsequent reduction of juvenile delinquency.

It is true that psychiatry does not offer any miraculous way of modifying human behavior and that what it proves cannot be mathematically accurate, still the scientific knowledge based on it is so near the truth that for all practical purposes it gives us satisfactory results. The work and the writings of a score of prominent psychiatrists and clinical psychologists, such as Healy, Bronner, Taft, the Gluecks, Kenworthy, Salmon, Adler, White, Hickson, Woolley, and Williams, have definitely demonstrated how helpful psychiatric study may be in working out the problems of maladjusted individuals of whatever grade of mentality. These specialists have carried the principles and practices of child psychology and psychiatry side by side from the laboratory into the courts of law, and have carried individualized study and treatment as far as the contributions made by medicine, biology, sociology, education, and other social sciences, together with their constructive imagination, permit. Their work in the field of criminology as synthesized in their writings has revolutionized the technique and mode of approach not only in the problem of juvenile delinquency, but also in that of adult criminality. As Professor Harry E. Barnes has said, more progress has been made in regard to the scientific understanding of the causes and prevention of crime in the last quarter of a century than in the preceding two thousand years.[1] With the development of this body of scientific knowledge, if it can be saved from deteriorating into a mere formula, it may be hoped that, if applied, it will not only mark the beginning of a new epoch in the history of law courts, but will also relieve mankind of much of its wretchedness, misery, and the widespread distress of civilization, and inaugurate a new social order founded on the principles of humanity, justice, understanding, and love in the place of one founded on bias, ignorance, prejudice, retribution, suspicion, hatred, and tribal taboos and superstitions.

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[1] J. D. Hunter, "The History and Development of Institutes for the Study of Children," in *The Child, the Clinic and the Court*, pp. 210-211.

There are two significant tendencies in the psychiatric-clinic movement. First, there has been a change of emphasis from study of misconduct and delinquency to a study of conduct and the whole field of behavior. The contributions of psychology and psychiatry are no longer conceived to be limited to the task of defining whether a given delinquent is feeble-minded or insane but are rather applied to the understanding and treatment of human behavior as a whole, normal as well as abnormal. Accordingly, while the early institutions were generally called "Psychopathic Institutes," the more recent institutions are mostly entitled "Child Guidance Clinics." Secondly, the emphasis of most of these clinics is laid on community service rather than on service to juvenile courts only as in the past. It soon became evident that work with children who present behavior problems would be more effective if the problems were recognized and dealt with before the behavior had become so serious as to necessitate some form of court action. This means that it became increasingly necessary for the psychiatric clinics for children to establish direct contacts with public schools, with social agencies, and with homes.[1]

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[1] H. E. Barnes, *The Repression of Crime*, p. 7.

The signs of the time indicate that a wider scientific spirit will be introduced into the work of the juvenile court and that the clinic, with its medical, psychological, psychiatric, and social approach, will remain an indispensable part of the court because it is founded on a sound philosophy. Whether or not it is desirable to define a delinquent child as a "problem child," there is a noticeable trend toward that direction. The day may come when we shall dispense with the court procedure and resort solely to the medical, psychological, psychiatric, and social technique for handling the child who is charged with conduct difficulties, just as we do in a hospital or laboratory.

4. *THE EVOLUTION OF THE FAMILY-COURT IDEA*

In the legislation of the last decade there has been a strong tendency to extend the jurisdiction of the juvenile court, or to combine in one tribunal, termed "juvenile court" or "domestic relations court" or "family court," jurisdiction over both children's and domestic relations cases. As in the case of the juvenile court, a family court is almost impossible of definition because of the great diversity in jurisdiction, organization, and point of view. As the term is generally used and understood, a family court has jurisdiction in both children's and domestic relations cases, that is, it is a combination of the juvenile court and the domestic relations court. In the following discussion the term "family court" will be used to denote any court, under whatever name it may be, that has both kinds of jurisdiction to a considerable extent. The recent tendency is to designate such a court as "juvenile and domestic relations court."

Viewing the family as a unit, family matters cannot be adjusted intelligently without considering them as a whole. Dissension and strife in marital relations, illegitimacy, dependency, neglect, juvenile and contributing delinquency, guardianship, custody, and adoption—all are peculiarly intimate in nature, inextricably interlocked and produced by causes as variable as human nature itself. They involve the security of the home and the welfare of children. In many instances, they have a common origin, and each of them must be considered as a different aspect of the same problem.[1] It is evident that it is difficult, if not actually impossible, to solve by a court of divided jurisdiction the problems of an anti-social character that arise in the family. It is imperative that these matters should be handled by one court, which partakes more of an administrative than a judicial nature, and which can afford to obtain information concerning the family as a whole.

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[1] See Commonwealth Fund Program for the Prevention of Delinquency, *Progress Report 1925*, p. 16. *Cf.* also Hunter, *op. cit.*, pp. 204-214.

Viewed from the aspect of the efficiency of the court machinery, the unification of jurisdiction in domestic relations and juvenile cases is a very desirable step. If the family is dealt with as a unit, there will be avoided much duplication of effort which results from handling family problems by separate courts. As courts are now organized, each has a slice of the whole jurisdiction over all family matters. There is neither unification, nor specialization, nor even uniformity of methods. The present system, as it exists in some places, of handling divorce cases in one court, separation suits in another, non-support in a third, and juvenile matters in a fourth, unquestionably tends to nullify the power of each court for good and to rob the law of much of its possible effectiveness.[2]

The family court, like the juvenile court, is a manifestation of the socializing tendency in law and its administration that we have witnessed since the dawn of the present century. It is largely an extension of the same principle as that upon which the juvenile court is founded. It is the purpose of those interested in social welfare to provide for the consideration of all matters relating to the family in one court of exclusive jurisdiction in which the same methods of procedure shall prevail as in the juvenile court, and in which it will be possible to apply social diagnosis and treatment according to special needs. The need for increased facilities for socialized procedure, such as investigation, diagnosis, informal hearing, probation, and the coöperation of the existing agencies in the community, in such cases as non-support and desertion, adoption, divorce and separation, and family difficulties of various kinds is as urgent as in children's cases. In fact, in a number of courts, social investigation, probationary service, and even clinical study are entering domestic relations cases, such as cases of non-support and desertion, and divorce, especially when the protection of children is involved. These courts are finding it possible to prevent and to adjust many marital troubles.[1] This new idea has revolutionized not only family courts but also misdemeanant, or petty criminal, courts. They are now tending to be identical with the juvenile court in spirit and procedure.[2]

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[1] C. W. Hoffman, "Social Aspects of the Family Court," *Jour. Crim. Law.*, 10: 409, November, 1919.

[2] R. H. Smith, *Justice and the Poor*, pp. 73-82; Mary E. McChristie, "The Development of Family Courts," *Proc. Natl. Probation Assoc.*, 1924, p. 169.

The tendency in recent years to apply at least some of the principles and methods of the juvenile court to some of the adult cases has been very strong. Whether or not the distinction between the juvenile court and other criminal courts will eventually disappear we do not venture to prophesy. But if the juvenile-court age can be raised as high as to embrace children of eighteen or even twenty-one, why not carry over our juvenile-court procedure into adult courts, as a number of criminologists and social workers logically ask. The signs of the time seem to indicate that the day of the juvenile court as an agency concerned with children only is passing; that the methods used in the best courts for dealing with delinquent and neglected children are going to be applied increasingly to adults; and that the family is to be treated as a unit.[3]

The desirability of combining in one court all jurisdiction in children's cases and cases involving family problems has been discussed and approved by lawyers and social workers since the end of the first decade of the juvenile-court movement.[4] The National Probation Association has studied this question for a number of years. A committee on domestic relations courts was appointed in 1916. The committee report was submitted in 1917 and, consequently, a resolution was adopted, recommending the establishment of the family court and the organization of the then existing domestic relations courts under that title and the vesting of such a court with exclusive jurisdiction of cases of desertion and non-support, paternity cases, all matters arising under acts pertaining to the juvenile court, all matters pertaining to adoption and guardianship of children, and all divorce and alimony cases.[1] Beginning in 1917, this committee continued the work and during 1918, 1919, 1920, 1922, 1924 and 1925 laid down a broad plan for the development of family courts.[2]

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[1] C. L. Chute, "The Community and the Delinquent," *Proc. N. Y. State Conf. Char. and Corr.*, 1923, p. 13.

[2] For arguments in favor or against the family-court idea see Bernard Flexner, "Juvenile Courts," *Survey*, 31:351, December 27, 1913; H. S. Bucklin, "The Family, the Law and the Courts," *Proc. Natl. Probation Assoc.*, 1922, pp. 126-133; Emma O. Lundberg, "Standards of Juvenile and Domestic Relations Courts," *Proc. Natl. Probation Assoc.*, 1923, pp. 232-240.

[3] For a discussion of the extension of juvenile-court methods to adults see Sutherland, *Criminology*, pp. 307-312; C. L. Chute, "Probation in Children's Courts," U. S. Children's Bureau, *Pub. 80*, p. 29.

[4] T. D. Eliot, *The Juvenile Court and the Community*, pp. 155-172, especially pp. 158-159.

The Committee on Juvenile Court Standards in its report made no recommendation for or against the establishment of a unified family court. The jurisdiction outlined in the standards adopted in 1923, however, corresponds very closely to that outlined by the committee of the National Probation Association except that divorce and alimony cases and cases of guardianship of children are not included.[3] It is evident that a juvenile court clothed with so broad and exclusive a jurisdiction as recommended would be in effect a family court, for few family courts as now organized have jurisdiction over divorce and alimony cases and cases of guardianship of children. The Standard Juvenile Court Act, drafted by the Committee on Standard Juvenile Court Laws of the National Probation Association and approved in 1925, does not differ from the recommendation made by the Committee on Juvenile Court Standards as to the extent of jurisdiction except that guardianship matters are included.[4] All these recommendations are evidently in line with the opinion of authorities and the legislative tendency.

Most of the domestic relations courts are not family courts, nor do all family courts have both juvenile and domestic relations jurisdiction. For example, the domestic relations courts in Buffalo, created in 1910 and the first of the kind, Boston, Kansas City, and Chicago, and the so-called family courts in the cities of New York[5] and Newark are separate and distinct from the juvenile court or the family court properly so called. They have jurisdiction only over those cases which come under the general denomination of misdemeanors under the criminal law, such as abortion, paternity, violations of truancy laws, violations of child-labor laws, non-support and desertion of wife and child, abuse or mistreatment of wife and child, contributing to the delinquency and dependency of children by parents or others, and minor offenses against children. They rarely have jurisdiction over cases of adoption, guardianship, divorce, and alimony. Most of them are city courts or parts of city courts with a limited jurisdiction.[1] As a rule, they are not socialized to any considerable extent as far as their procedure and methods are concerned. The main purpose of their creation is to separate family cases from general matters. Today the common opinion seems to be either that they should be replaced by family courts or juvenile courts with domestic relations powers, or that their procedure for treatment of family cases, even if they do not involve children, should be similar in many respects to that of the juvenile court.

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[1] C. W. Hoffman, "Report of the Committee on Courts of Domestic Relations," *Proc. Natl. Probation Assoc.*, 1917, pp. 82-86.

[2] Proceedings of the Association for these years, respectively, pp. 133-138, 113-119, 73-81, 119-126, 167-175, 106-113.

[3] Appendix I, p. 222.

[4] See *supra*, p. 198 and Appendix II, pp. 234-235.

[5] See W. B. Cobb, *Inferior Criminal Court Act of the City of New York*, pp. 228-264.

The proposed family court has come into existence during the last fifteen years in one form or another. Its organization is, in most cases, a very simple matter. The simplest method is to vest the juvenile court with broad domestic relations powers. In fact, creating a family court is not more than enlarging the jurisdiction of the juvenile court or the domestic relations court and designating it by a new name. Some juvenile courts, such as those in Denver, Newark, and Jersey City and, to some extent, those county children's courts of New York State which operate under the state-wide act of 1922, have already been given jurisdiction in such cases as adoption, desertion and non-support, and, in a few instances, guardianship and paternity, though the jurisdiction is often concurrent instead of exclusive. Many juvenile courts are such only in name, for they deal with practically as many adults as children.

Another method of organization of family courts is the creation of separate juvenile and domestic relations divisions within some existing court. This is the situation in Philadelphia and St. Louis. In the Municipal Court of Philadelphia there are a juvenile division and a domestic relations division. The two divisions are distinct and separate from each other. Each of them has its own judge and probation staff. However, in cases of domestic difficulty in which children are brought before the court, the two divisions combine their efforts on parents and children. Orders are placed on parents in the domestic relations division for the support of wife and children. These cases are also listed in the juvenile division for probation and placement of children. Thus, it is only where children are concerned that the two divisions come into contact. The method used to learn the relationship between all the branches of the court is through the central registration bureau of the court. The St. Louis domestic relations court, created in 1921, consists of two separate divisions of the Circuit Court designated, for convenience, Division One and Division Two of the Court of Domestic Relations. To these two divisions are assigned all cases of divorce, separate maintenance, annulment of marriage and allied cases; all cases arising under the juvenile-court laws; and all cases arising under the child-labor and compulsory education laws. The St. Louis court does not have desertion and non-support cases, a serious omission.[1] Unlike the court in Philadelphia, in St. Louis the two divisions are more closely coördinated and one of the two judges of the domestic relations division presides over the juvenile division. One court of this nature was attempted in Michigan, but the law of 1913 creating a domestic relations branch of the Circuit Court in Detroit was declared unconstitutional in 1914, chiefly on the ground of special legislation.[2]

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[1] E. F. Waite, "Courts of Domestic Relations," *Minnesota Law Rev.*, 5:164, February, 1921.

The situation in Omaha, Nebraska, and Des Moines, Iowa, is somewhat similar to that in Philadelphia and St. Louis in view of the fact that the domestic relations courts in all these places are simply branches of other courts. In the former two places, however, they were established without special legislative enactment. The juvenile and domestic relations court in Omaha is a branch of the district court, but it was transferred into an effective family court by court rule, simply assigning non-support and divorce cases, mothers' pension cases, and all matters pertaining to domestic relations over which the district court has jurisdiction to the particular judge who hears children's cases.[3] In Des Moines also, general jurisdiction in domestic relations cases was vested in the district court. The district court has exclusive jurisdiction in cases of divorce, desertion and non-support, illegitimacy, offenses against children of a certain grade of seriousness, and appointment of guardians. One of the main objects in the establishment of the domestic relations division in the Des Moines court, over which the judge of the juvenile division presides, was to provide for investigations in divorce cases in which children were involved.

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[1] J. W. Calhoun, "The Courts of Domestic Relations," *St. Louis Law Rev.*, 7:152-158, 1922.

[2] Attorney General *v.* Lacy, 180 Mich. 329. *American Legal News* No. 9 (1914), p. 5.

[3] L. B. Day, "A Unified Court Dealing with Family Matters," *Family*, 7: 151-153, July, 1926.

The most common method of organization of family courts is the creation of courts of domestic relations of more highly organized type and the combination of juvenile and domestic relations cases in one court. Notable instances of this type of organization are those established in five Ohio counties and throughout Virginia.

The well-known domestic relations court in Hamilton County, Ohio, in which the city of Cincinnati is located, the first of its kind in this country, was created in 1913 by a legislative enactment providing that one of the nine judges of the Court of Common Pleas should be designated in election as judge of the Division of Domestic Relations and that to the judge so elected the judges in joint session should assign all cases of divorce, alimony, illegitimacy, neglect and abuse of children, non-support and desertion together with all matters arising under the juvenile-court act. Since 1917 similar courts have been organized in four other counties of Ohio, in which the cities of Dayton, Akron, Youngstown, and Toledo are situated. Though still termed domestic relations courts, these Ohio courts are in every essential family courts dealing with almost every phase of family life except cases of guardianship and adoption. They are in close approximation to the court proposed by the National Probation Association.

In Virginia an independent domestic relations court was established in Richmond in 1916 and in Norfolk in 1919. In 1922 the court system was extended from these two cities to every city and county in the state. The Virginia juvenile and domestic relations courts were given jurisdiction over cases of juvenile delinquency, dependency and neglect, desertion and non-support including also ill-treatment and abuse or neglect of wives and children, contributing to delinquency and dependency, and offenses against children, cases involving offenses, except murder and manslaughter, committed by one member of the family against another, cases of contributing to the disruption of marital relations or of a home, and all cases concerning the education, protection, and care of children. Because of constitutional limitations, the Virginia courts have not been given jurisdiction in paternity cases, adoption and guardianship matters, and cases involving questions of divorce and alimony.

The family-court movement has been spreading rapidly. Similar courts in one form or another have been established in Portland, Oregon, Birmingham, Alabama, and Huntington and Morgantown, West Virginia. The Oregon court was given exclusive jurisdiction in cases under the juvenile-court laws, adoption, and commitment of feeble-minded, idiotic, epileptic, and "criminally inclined" persons under eighteen years of age, and concurrent jurisdiction with the district court in non-support and desertion cases. It has no divorce jurisdiction. The Alabama court was given jurisdiction over juvenile matters and cases of desertion and non-support, but not cases of divorce. The Morgantown court has jurisdiction over juvenile matters and cases of desertion and non-support of wives and children, while the Huntington court has, in addition, jurisdiction over cases of divorce, annulment of marriage, and alimony. Its divorce jurisdiction is concurrent with that of the circuit court. In Oklahoma, a law creating a family court in Tulsa was passed in 1925. The proposed court was vested with jurisdiction over cases of divorce, separate maintenance, alimony and proceedings arising out of divorce cases (concurrent with district court), and all matters relating to juvenile and adoption cases (concurrent with county court). But the district judges declined to assume jurisdiction as given in the act, stating that in their opinion the law was unconstitutional. Legislation creating family courts was being considered in several other states.

The development of the juvenile court into a family court, under whatever name it may go, is both significant and interesting. All the essential features of the separate juvenile courts are retained, but the same court machinery deals with family problems, which require just as socialized a procedure as do children's problems. The main purpose of the movement is the socialization of procedure in family cases so that it will be on a par with the methods developed by the juvenile court and the coördination of all judicial activities which may concern the problems of a single family. It means doing away with duplication of records, investigations, and case work by two or more probation staffs with the same family. It further promotes the tendency to reach the parent and to keep the child out of the court.

There are practical difficulties in the unification of jurisdiction in juvenile and domestic relations cases. First, there are constitutional difficulties in some states, where jurisdiction over domestic relations cases is vested by constitution in some other courts, making the creation of a new court impossible unless constitutional amendments to this effect are made or unless the court is to be tied up with the court that has constitutional jurisdiction over these matters. Secondly, in large cities the juvenile court is, in most cases, already overloaded with work and its facilities would have to be doubled if it should become a mixed court for both children and adults. As adult cases, especially divorce cases, would likely consume more of the judge's time than children's cases, it would result in the neglect of children's cases and make specialization in juvenile work impossible. Thirdly, since cases of non-support and desertion, paternity cases, and contributing cases involve criminal or, at least, quasi-criminal procedure, it is therefore in opposition to the earlier demand for separate hearings for children's cases and may cause the juvenile court to lose its essential character.

In general, all these objections are true, but the advantages of unification over the inadequacy of piecemeal justice and the procedural difficulties, formerly created by the multiplication of courts, are too great and too many to be overlooked. As a general proposition, however, the juvenile court should first be brought to a high standard of efficiency before an attempt is made to consolidate juvenile and domestic relations jurisdiction. It should be clearly evident that it is going to be possible to obtain adequate administrative machinery for social service work in the new court before we set it up. It is important that care should be taken to safeguard the juvenile court in its work with children. Separate hearings for juvenile and adult cases should be provided in the new court. Chancery procedure in adult cases should be adopted, whenever possible. The form under which the new court should be organized matters little if the methods it uses are really effective. It is advisable that the court should be vested with jurisdiction over cases of non-support and desertion, paternity, adoption, and contributing to delinquency and dependency. There is danger, however, in vesting such a court with divorce jurisdiction, at least when children are not involved, because the court may be swamped with divorce cases and neglect children's cases. After all, the whole question seems to be distinctly one of local expediency rather than one which must be settled on principles of general application. Due regard should be given to the character of the community and the original judicial structure. Although the tendency of today is distinctly in the direction of consolidation of juvenile and domestic relations cases into one court, the full value of this consolidation is still for the most part to be demonstrated, notwithstanding the fact that we have had several very interesting experiments in this matter.[1]

5. *APPRAISAL OF THE JUVENILE COURT*

It would have been strange, indeed, if an institution as complex and as revolutionary as the juvenile court had not encountered attacks and criticisms during its quarter-century's existence. It has been ridiculed as a "kindergarten," characterized as "monstrous," and suspected of having practiced "hypnotism" upon children. It has been charged that it has been held in suspicion by the layman, in contempt by the lawyer, and regarded weak by the judge.[2] Naturally, there arose cries, the echoes of which can be heard even now, for its destruction or, at least, for its modification. Constitutional attacks are almost things of the past. Political attacks, which now and then have their day in some quarters, are comparatively infrequent at present. What now remains is what we may call functional attacks; that is, attacks which are largely concentrated on the question of the proper functions of the juvenile court. This leads us directly to the long controversy over the relation of the juvenile court to other public agencies, and particularly to the schools.

Questions have been asked time and again by some thoughtful students of the juvenile court as to whether the juvenile court can ever be conducted properly by a judicial tribunal, and whether most, if not all, of its work can be merged into the public school system. The arguments for this plan differ in detail, but, in the main, they are based upon two propositions: that most of the work of the court is administrative in nature and not adapted to a judicial court, and that because it is educational in nature it should be turned over to the school. The concrete suggestions also differ. Some would abolish the court altogether, distributing its functions among the schools and other appropriate agencies, while others would retain the court, but have its functions strictly limited to the so-called judicial side, or merge it with the domestic relations court. It is to be noted that it is not so much the amount of jurisdiction as the nature of the functions of the court that is the focal point of dispute.

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[1] The whole subject is now under review by the United States Children's Bureau. Some of the conclusions reached here were drawn from a memorandum furnished to the writer through the kindness of Miss Katharine F. Lenroot of the Bureau.

[2] H. M. Baker, "The Court and the Delinquent Child," *Amer. Jour. Sociol.*, 26:177, September, 1920.

The suggestion is not new. That juvenile-court functions should be incorporated in a school system was suggested as early as 1912 by Professor Hotchkiss in his report on the Chicago juvenile court.[1] Dr. Eliot in his writings advanced a more elaborate argument in favor of the idea. Judge Baker took up the same challenge with a more conservative view. Miss Additon, Miss Deardorff, and a few others joined them in their attacks.[2]

That most of the juvenile-court work is administrative and not judicial in character, and that the juvenile courts are not fundamentally adapted to this work has been emphatically stated by Dr. Eliot. After examining the various administrative functions performed by different juvenile courts, such as making arrests, filing complaints, management of detention homes, social investigation, mental diagnosis, administration of mothers' pensions, unofficial handling of cases, administration of child-labor laws, handling of "pure dependency" cases, handling of truancy cases, supervision of children on probation, and really all that is commonly known as probation work, he concluded:

> Among all the functions so far enumerated there is not one which is essentially judicial in character, and therefore not one which is absolutely necessary as part of a juvenile court, so far as law or theory is concerned.[3]

According to Judge Baker the juvenile court failed. He ascribed the main reason for this failure by saying in no less emphatic terms:

> It is not the legitimate province of a court to investigate the habits of an alleged delinquent to determine whether or not he should be prosecuted, thus pre-judging before trial his guilt or innocence; and much less should it be its duty, after conviction and

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[1] *Report*, p. 26. See *supra*, p. 28.

[2] See T. D. Eliot, *The Juvenile Court and the Community;* Henrietta S. Additon and Neva R. Deardorff, "That Child," *Survey*, 42:185-188, May 3, 1919; Henrietta S. Additon, "Should the School Take Over the Work of the Children's Courts?" *Proc. Natl. Probation Assoc.*, 1919, pp. 84-98; H. M. Baker, "The Court and the Delinquent Child," *Amer. Jour. Sociol.*, 26:176-186, September, 1920; T. D. Eliot, "The Back-to-the-School Movement; the Unofficial Treatment of Pre-delinquent Children,"*Jour. Delinq.*, 7:334-349, November, 1922; T. D. Eliot, "The Treatment of Misbehaving Children by Non-Court Agencies," *Proc. Natl. Probation Assoc.*, 1923, pp. 137-155; T. D. Eliot, "The Project-Problem Method as Applied in Indeterminate Sentence, Probation, and Other Re-educational Treatment," in *The Child, the Clinic and the Court*, pp. 102-107; T. D. Eliot, "Case Work for Quasi-delinquent Children by Educational and Other Non-Court Agencies," *Jour. Delinq.*, 4:1-50, January-March, 1925.

[3] Eliot, *The Juvenile Court and the Community*, pp. 17-18.

> suspension of sentence, to supervise his conduct, or to determine whether or not he should be brought again into court, thus making the judge the complaining witness, the prosecutor, the jury, and the executioner. . . . The true function of a court is to determine judicially the facts at issue before it; or, in criminal matters, the guilt or innocence of persons charged with crime. Investigations of the lives, environments, or heredity of delinquents, the infliction of punishment, and the supervision of probation, institutionalize the courts and are repugnant to every tenet of the science of law.[1]

Since most of the juvenile-court work is administrative or non-judicial in character and the juvenile courts are not adapted to this work, some other agency or agencies should take it over. The exponents of the idea generally agree that since most of the work, especially that relating to probation, is essentially educational in character, most, if not all, of the administrative work should be incorporated in an educational system. The Hotchkiss report put forward the following suggestion in 1912:

> The fact that juvenile delinquency and dependence is essentially a problem in education has given rise to the suggestion that its official connection with the judicial system should be severed and the administration of juvenile legislation turned over to school authorities. If such a policy should force upon the schools a greater emphasis upon moral aspects of education, it might be worth while, quite aside from possible benefits in enhancing the unity of child policy.[2]

The later exponents of this plan generally contend that the ideals and essential character of probation are educational and administrative in character. Probation is regarded as a form of special education and, therefore, should be linked with the school rather than with the court.[3] They argue that reformation and correction of delinquent children are processes of education, that education is specifically the province of the home and school and by no stretch of imagination that of the court; that the courts should not be warped to supply a want totally foreign to their geniune objects; and that the suitable institution to undertake the reformation and correction of incorrigible children is the school.[4]

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[1] Baker, *loc. cit.*, p. 178.
[2] *Report*, p. 26. See *supra*, p. 28.
[3] Eliot, *op. cit.*, pp. 123-132.
[4] Baker, *loc. cit.*, pp. 181-182.

Having laid down their propositions, the exponents began to claim the advantages and the possibilities of their plan.[1] In the first place, it is urged, if more than half of the children's cases can be adjusted informally by the court without any official action, this work could be done as well by the school in an unofficial capacity and on a non-compulsory basis. In the second place, as a matter of fact, the schools are developing just along this line. Attendance departments, medical inspection, school nurses, school clinics, vocational bureaus, special schools or classes, visiting teachers, adjustment bureaus—all of these educational agencies are attempting to deal with all problems of maladjustment of school children. The schools thus are really assuming much of the work that was previously transferred to the juvenile court. In the third place, no matter how delicately the case may be handled, certain stigma is attached to the child brought into court. No stigma will be attached to action by the school. In the fourth place, schools can do the work more efficiently, for the family is more willing to coöperate with schools than with the court. Investigation and study of the child and the family are made easier because of their constant contact. When commitment is needed, it would be necessary merely to transfer the child from the regular public school to a special school on a voluntary basis or, if the custody is disputed, by the decision of a regular court. Lastly, this program will not only deal efficiently with the problem of delinquency or misconduct, but will also make the schools more mindful of their responsibilities.

When we come to constructive plans, the exponents of the idea are somewhat divided as to the retention of the juvenile court and the distribution of its functions to other agencies. If they should be turned over to the school, how should the school be organized?

Dr. Eliot's main thesis is that the functions of the juvenile court should be absorbed on the judicial side, that is, adjudication and enforcement, into a larger family court, and on the treatment side, including probation and clinics, into the general educational and child-caring system.[2] Other administrative work that cannot be assumed by the schools should be redistributed among the police and other appropriate agencies.[1]

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[1] For a brief summary of some of the arguments pro and con see Sutherland, *Criminology*, pp. 302-307.

[2] T. D. Eliot, "The Project-Problem Method as Applied in Indeterminate Sentence, Probation, and Other Re-educational Treatment," in *The Child, the Clinic and the Court*, pp. 102-103.

Judge Baker would like to abolish the juvenile court and turn all its functions over to the schools except the determination of the fact or status of delinquency and the imposition of penalty, for which purpose he suggests that "there should be some officer connected with the schools with authority to enter lawful judgments of punishment and commitment, and with power to enforce them when they are made." He does not seem to object to placing this judicial function in some established court.[2]

Miss Additon would like to abolish the juvenile court entirely and vest all its functions in a "department of adjustment," which should be equipped for medical, psychological, and social services. All problem children could be referred to this department, and special schools for children, homes of detention, and child-placing agents should be assigned thereto.[3] In the realignment of the judicial functions, adults should appear before the courts for adults, and for those children who require the application of the extreme authority of the law, there could be a special representative of the judiciary delegated to the school to give judicial authority to the department's plans for such children. This representative would be in the nature of a legal adviser and would act in the same way as does a master in divorce proceedings.[4]

The opponents of the proposal, on the other hand, while admitting that most of the work of the juvenile court is administrative and educational in character, hold, in general, that the suggested plan is neither desirable nor practicable. Among those who are of this opinion we may mention Judge Ricks, Professor Thurston, Miss Lundberg, Mr. Merrill, and Judge Waite.[5] In the first place, they argue, there is no reason why the court should not have administrative functions and why all that is educational in character should be turned over to the school. It is true that the juvenile court is a judicial institution, but it is really more administrative than judicial in nature. It is an administrative agency provided by law for the purpose of protecting children who fall into error or who become dependent or neglected. In order to fulfill its protective duties, it is necessary that the juvenile court be provided with facilities for ascertaining all facts that may have influenced the child's behavior and for administering treatment necessary for his restoration and readjustment. The juvenile court does not stand alone in this respect. The supervision of the person and estate of minors in the English High Court of Chancery and in courts of probate jurisdiction in America, the collection of support money in domestic relations courts, the duties of trustees and receivers in civil courts, and probation in ordinary criminal courts are all administrative in nature. Moreover, the reformation and correction of adult offenders is also educational in character —at least this is the tendency—but we are far from being ready to incorporate this public function into the public school system.

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[1] Eliot, *The Juvenile Court and the Community*, pp. 7-21.

[2] Baker, *loc. cit.*, pp. 185-186. See also his article, "Passing of the Juvenile Court," *Survey*, 45:705, February 12, 1921.

[3] Additon, *loc. cit.*, pp. 94-98.

[4] Additon and Deardorff, *loc. cit.*, p. 188.

[5] See Lilburn Merrill, "Public Schools and the Treatment of Delinquent Child," *Journ. Delinq.*, 5:207-214, November, 1920; H. W. Thurston, "Is the Juvenile Court Passing?" *Survey*, 47:119-120, October 22, 1921; J. H. Ricks, "The Juvenile Court of the Future," *Natl. Humane Rev.*, 8:43-44, March, 1920; Emma O. Lundberg, "The School and the Juvenile Court," *Survey*, 45:703-704, February 12, 1921; Lundberg, "Juvenile Delinquency," *Juvenile Chicago*, 23:12-15, November, 1923; E. F. Waite, "The Outlook for the Juvenile Court," *Annals Amer. Acad.*, 105:229-242, January, 1923.

In the second place, the opponents argue that the courts can perform many administrative functions more efficiently, because they have compulsory power behind them. Many a delinquent career is brought to a halt for the first time by the realization of the seriousness of court action. The power and respect enjoyed by the court are too valuable to be set aside lightly in favor of vesting the disciplinary powers of the state entirely in schools or other agencies. This power cannot be exercised wisely by schoolmen, for it would often mean but a postponement of the use of the court power. Moreover, juvenile delinquency is, in many cases, a proof of failure in the public schools. A new agency with legal authority and with a new point of view is more likely to be effective.

In the third place, the opponents contend that the school cannot deal with children of all ages, of all types, and at all times. A large proportion of children within the ages of the juvenile-court jurisdiction are outside the control of the school. The compulsory school age rarely extends to the juvenile-court age limit, and yet children about that age constitute a large proportion of the delinquent children coming before the juvenile court and are usually the most difficult to deal with. On the other hand, a large number of neglect and dependency cases coming before the court involve children under school age. The exponents of the plan speak in terms only of delinquent children and only of those who attend public schools. Dependent and neglected children cannot be dealt with satisfactorily by the school. Many children who attend private or parochial schools cannot be reached by the public school. Neither can the school deal with all kinds of delinquents. The serious delinquencies or offenses which are not connected with behavior in the school are not properly within the province of the school at all. Finally, the school cannot deal with children at all times, because it is not always in session, while the juvenile court is almost always in session.

Lastly, it is argued that such a change would react unfavorably on the school itself. The stigma of delinquency will attach itself to any institution that deals with offenders. The teacher and the school authorities will soon be looked upon with suspicion by the child and the parents and regarded as policemen or prosecuting officers. Just as in the case of the juvenile court, the school, by assuming too many duties, will suffer by neglecting its own immediate and proper field of work. This would reduce the influence of the school in the community.

Those who are closely connected with the juvenile-court movement generally agree that the transfer of the work of the juvenile court to the school department or other public departments is neither desirable nor practicable, at least under present conditions. The attempt to make the juvenile court a purely judicial tribunal is conceivable only if we are moving backward. Nor is it desirable or practicable to make the juvenile court an all-inclusive agency of child-welfare work and to extend its functions over matters which could be successfully administered by other public or semi-public agencies.

However that may be, there is no reason why the court should not coöperate with other well-organized public or semi-public agencies, nor why we should not withhold from court proceedings as many children as may be dealt with satisfactorily by these agencies. The so-called pre-delinquent or quasi-delinquent or semi-delinquent children who are in schools and those children whose misconduct is essentially a school problem and is not serious enough to be referred to the courts can well be dealt with by the school authorities in the modern spirit of social case work. In some places the courts have begun to react against having brought before them truancy cases which might be adjusted by the school departments in a constructive way. An encouraging sign of what can be accomplished is found in a few communities. The specially organized school attendance departments in Los Angeles, Minneapolis, Seattle, and St. Louis are doing increasingly effective work in handling their own cases, and the cases referred to the juvenile courts by the schools have correspondingly decreased.

In order to deal effectively with even a portion of truancy cases and cases of other forms of misconduct, the schools themselves must be organized, equipped, and socialized to face their new responsibilities. Their efforts should be well planned and systematically coördinated. A centralized and socialized department of the public schools, by whatever title it may be known, with its trained officers who would give all their efforts to solve the problems of children who have behavior difficulties, and with its medical, psychological, and social facilities for diagnosis and treatment would seem to be a practical solution. Such specialized departments, purporting to coördinate the various special educational bureaus or services and to combine all the adjustment work for problem children in schools, have already been established under various titles in a number of communities.[1]

After all is said, a socialized juvenile court, under whatever name it may be called, will always be needed to protect and correct the children of the community. Certainly, there are many semi-delinquent cases brought before the juvenile court which should be handled in the schools, and there are many other matters which could be administered successfully by other public or semi-public agencies without invoking judicial action. However, there are many cases in which children are directly or indirectly affected by the determination of legal rights and legal obligations and which can be decided only by a definite legal tribunal after a judicial hearing of all the facts at issue and in accordance with the principles of law as well as the dictates of social justice so that the handicapped children of the community who come before it may be adjusted, protected, corrected, and developed into useful members of society. The juvenile court as a clinic, a social agency, and a legal institution is so far the best instrument ever devised by society to handle children's problems outside the home, the school, and other social organizations. It may become more and more socialized and its methods may become more and more scientific, but its judicial and parental character will continue, at least for generations to come. As civilization advances, a better and finer agency may be evolved to handle problems that the juvenile court now handles, but unless that agency actually demonstrates its higher value as a substitute, the juvenile court will remain to serve as a fountain of mercy, truth, and justice to our handicapped children.

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[1] T. D. Eliot, "The Treatment of Misbehaving Children by Non-Court Agencies," *Proc. Natl. Probation Assoc.*, 1923, p. 151.

Appendix I

JUVENILE-COURT STANDARDS[1]

I. *THE COURT*

a. *Court Given Jurisdiction*

1. There should be available to every community a court equipped to deal with children's cases.

2. The laws of each State and local conditions determine whether the juvenile court should be an independent court or a branch of a court, and in what court system it should be placed. In order that the court may serve rural as well as urban population, it is usually desirable that the county should be the unit of jurisdiction.

3. The juvenile court should be a court of superior jurisdiction and a court of record. The disposition of a child in the juvenile court, or any evidence given in a juvenile court proceeding, should not be lawful evidence against the child in any civil, criminal, or other cause or proceeding in any other court.

b. *Nature of Proceeding*

In children's cases the proceeding should be chancery or equity, and not criminal, in nature. The juvenile court should, however, be vested with criminal jurisdiction in adult cases such as contributing to delinquency and dependency of children.

c. *Extent of Jurisdiction*

1. The juvenile court should be vested with exclusive jurisdiction over the following classes of cases:

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[1] Report of the Committee Appointed by the United States Children's Bureau, August, 1921, to Formulate Juvenile-Court Standards. Adopted by a conference held under the auspices of the Children's Bureau and the National Probation Association, Washington, D. C., May 18, 1923.

The following served as members of the committee: Judge Charles W. Hoffman (Chairman), Judge Kathryn Sellers, Judge Henry S. Hulbert, Judge Frederick P. Cabot, Dr. Miriam Van Waters, Dr. William Healy, Dr. V. V. Anderson, Charles L. Chute, Herbert C. Parsons, Bernard Fagan, Joseph L. Moss, Henry W. Thurston, Ralph S. Barrow and Emma O. Lundberg (Secretary).

Courtesy of the United States Children's Bureau.

(a) Children alleged to have violated laws or ordinances of the State or of any subdivision thereof, or children whose conduct or associations are alleged to have rendered them in need of the care and protection of the State. The juvenile court should not have the power to waive jurisdiction and certify cases for trial in another court.

(b) Children whose custody is to be determined by reason of their being in need of protection and supervision, homeless, abandoned, destitute, without proper parental care or guardianship, neglected or cruelly treated, or in surroundings dangerous to morals, health, or general welfare.

(c) Adoption cases.

(d) Children in need of protection or custodial care by reason of mental defect or disorder.

(e) Violations of school-attendance laws beyond the provisions for control by school administration.

(f) Contributing to delinquency or dependency. A finding of delinquency or dependency of the child should not be necessary to adjudication. Action should not be limited to parents or guardians in cases of delinquency.

(g) Non-support or desertion of minor children.

(h) The determination of paternity and the support of children born out of wedlock.

2. The age limit under which the court may obtain jurisdiction in children's cases should be not lower than 18 years. Marriage of the child should not terminate jurisdiction. Jurisdiction once obtained should continue until 21 years of age unless the case is sooner dismissed or passes out of the jurisdiction of the court.

d. *The Judge*

1. The judge should be chosen because of his special qualifications for juvenile-court work. He should have legal training, acquaintance with social problems, and understanding of child psychology.

2. The tenure of office should be sufficiently long to warrant special preparatory studies and the development of special interest in juvenile work, preferably not less than six years.

3. The judge should be able to devote such time to juvenile work as is necessary to keep detention at a minimum, to hear each case carefully and thoroughly, and to give general direction to the work of the court.

II. *PROCESS BEFORE HEARING*

a. *Relation Between the Court and the Police Department*

1. The jurisdiction of the court should begin as soon as petition is filed or as soon as a child is taken into custody or placed in charge of an officer of the court. Whenever a child is taken into custody the parents or the person with whom the child resides should be notified at once by the police officer or other person holding such custody. The responsibility for such notice should rest with the court.

2. A child taken into custody should immediately be placed in the care of an officer of the juvenile court, and only if necessary taken to a place of detention for juveniles.

3. The police and peace officers should be required to work in close coöperation with the juvenile court in the handling of juvenile cases, and should be given a clear understanding of the difference between the procedure in children's cases and that in cases of adult offenders.

4. The police should not attempt to handle unofficially cases of juvenile delinquency after the child has been taken into custody. Police authorities should not be empowered to place children on unofficial probation without referring them to the court.

5. The police should not be authorized nor should they have the power to hold children in a station house. When the child is taken to a place of detention for juveniles, the authority of the police should cease except for giving information as to the cause of the child's arrest and filing a formal petition or complaint.

6. From the moment a child is taken into custody he should be sheltered to the greatest possible extent from public observation and from conditions that tend to mark him as an offender. Transportation in a police van, escort by a police officer in uniform, and any visible physical restraint are objectionable and should be avoided. Transportation of girls to a place of detention or elsewhere should be by women officers.

7. With rare exceptions, no collateral, bail, or appearance bond should be required in children's cases.

b. *Reception of Complaints and Adjustment of Cases*

1. The judge, or a probation officer designated by him, should examine all complaints and after adequate investigation determine whether a petition should be filed or other

formal action should be taken. It should be the duty of the court to bring about adjustment of all cases without such formal action whenever feasible.

2. Supervision should be exercised in cases handled informally when it is desirable thus to safeguard the child or keep in touch with developments.

3. The judge should exercise general supervision over all the work of the court, even though he is not able to give individual attention to all cases.

III. *DETENTION*

a. *Detention Policy*

1. The number of children detained and the length of detention should be kept at a minimum, and so far as possible those who must be detained should be provided for in private boarding homes. Detention should be limited to children for whom it is absolutely necessary, such as:

(a) Children whose home conditions make immediate removal necessary.

(b) Children who are beyond the control of their parents or guardians, runaways, and those whose parents can not be relied upon to produce them in court.

(c) Children who have committed offenses so serious that their release pending the disposition of their cases would endanger public safety.

(d) Children who must be held as witnesses.

(e) Children whose detention is necessary for purposes of observation and study and treatment by qualified experts.

2. Children should not be detained in jails or police stations.

3. No child should be detained without an order from the court for a longer time than is necessary to obtain such court order, unless the parents consent to detention or unless the parents can not be reached at once and need for detention is indicated, and in these cases decision as to detention should rest with the judge or some one designated by him, usually the chief probation officer.

4. Constant effort is required to keep the period of detention in each case as short as possible. This may be accomplished through frequent hearings, prompt investigation, sufficient court staff to expedite the movement of cases, and adequate facilities for institutional care.

b. *Methods of Detention*

1. For temporary detention either a public detention home or boarding homes under the supervision of the court should be provided, available to the entire area over which the court has jurisdiction.

2. The essential features of a detention home are the following:

(a) The juvenile court, if not actually operating the detention home, should control its policies and the admission and release of children.

(b) Provision should be made within the home for segregation of sexes and types of children, and for adequate isolation facilities and medical care.

(c) Adequate facilities should be provided for the study of the child's physical and mental health, but except in rare instances, the detention home should not be used primarily for this purpose.

(d) There should be specialized school work for the children detained, and recreational facilities should be provided. The daily program of activities should be full and varied in order that constructive interests may supplant morbid tendencies and undesirable companionships. Opportunity should be given for the exercise of the child's religious duties.

(e) Effective supervision should be maintained at all times.

(f) The detention home should not be used as a disciplinary institution.

IV. *STUDY OF THE CASE*

1. Social investigation should be made in every case, and should be set in motion at the moment of the court's earliest knowledge of the case.

2. The minimum essentials of adequate study of a case of delinquency are: Study of the child himself, including a physical and a mental examination and study of his behavior, developmental history, school career, and religious background; study of his environment, including his family and home conditions; an estimate of the essential causal factors responsible for his behavior; and in the light of this estimate, recommendations for treatment.

3. Psychiatric and psychological study of the child should be made at least in all cases in which the social investigation raises a question of special need for study and should be

made before decision concerning treatment, but only by a clinic or examiner properly qualified for such work.

4. The clinic for study of the child should be a separate branch of the court or a separate organization fully available. The personnel required includes a physician trained in psychiatry, a psychologist, and one or more social investigators.

5. The physical examination should be thorough, and all the community facilities for diagnosis and treatment should be utilized. Physical examinations of girls should be by women.

6. For rural communities facilities for study of the child may be provided through the development of centers in urban communities or through traveling clinics under the auspices of State boards or commissions or institutions.

V. *HEARING*

a. *Children's Cases*

1. The hearing should be held as soon as proper notice to parents or custodians can be given, and within 48 hours.

2. There should be no publicity in a juvenile-court case. The hearing should be private, with no one present other than those directly concerned in the case. Witnesses should not be permitted in the court room except when testifying. Adequate provision should be made for children awaiting hearing, and they should be protected from publicity and given necessary supervision.

3. One or both parents or the legal guardian of the child should be required to be present.

4. The hearing should be conducted with as little formality as possible, and the formal adherence to the practice and rules of procedure that characterizes the criminal court should be avoided.

5. The purpose of the juvenile court is to prevent the child's being tried and treated as a criminal; therefore, all means should be taken to prevent the child and his parents from forming the conception that the child is being tried for a crime. In the ascertainment of facts the court should always bear in mind the rules of evidence. This does not imply, however, that in the application of these rules the court must conduct a formal hearing.

6. In all cases there should be a written report of the proceeding, not official in the sense that affidavits and petitions are official but unofficial and private, to be used by the court for the purpose of record and interpretation.

7. In every case the court should explain to the child and parents the nature of the proceeding and the disposition made of the case.

8. Under no circumstances should jury trials be permitted in children's cases. They are inconsistent with both the law and the theory upon which children's codes are founded.

9. Children should not be present at the hearing of neglect or dependency cases except for the time required for identification, when identification is necessary.

b. *Cases Involving Adults*

In cases involving adults, such as cases in which adults are charged with contributing to the delinquency or dependency of children, the usual court procedure in criminal cases is necessary, as the defendant is entitled to all the safeguards that the law and Constitution throw around him. In the trial of these cases children who are involved should be protected to the extent that they should not appear in the court room except for the purpose of testifying, and while in the court room should be accompanied by a probation officer.

c. *Use of Referee*

1. It is desirable that girls' cases should be heard by a properly qualified woman referee.

2. Where the area of jurisdiction is so large that the judge can not attend promptly to cases in all sections, the court should utilize properly qualified referees.

3. In all cases heard by referees the judge should pass on findings and recommendations and review all dispositions. The judge should have general oversight of policies and each part of the district should be given a fair proportion of his time.

VI. *DISPOSITION OF CASES*

1. Sufficient resources of various types should be available for the supervision of children in their own homes, and for the care in family homes or in institutions of those who can not remain with their own families, so that in disposing of each case the court may fit the treatment to the needs of the child.

2. Institutional care should be utilized only when careful study that includes a knowledge of the needs and possibilities of the individual clearly indicates the necessity for it, or when repeated attempts to adjust the child to home life in the community have failed.

3. Fines should never be imposed in children's cases. Restitution or reparation should be required only in cases where they seem to have disciplinary value or to instill respect for property rights.

4. A complete copy of the social investigation and reports of physical and mental examinations, and a summary of the work done by the court on the case, should accompany the order of commitment to an agency or institution. These records should be unofficial and private.

5. Children placed under the care of private agencies or institutions should remain under the jurisdiction of the court, and there should be close coöperation between the court and the agency or institution. The court should have the power to require reports concerning the progress of the child and to visit agencies and institutions to which children are committed. All private agencies and institutions receiving children from the court should be subject to State supervision.

6. Administrative work such as placing dependent or neglected children in family homes should not be undertaken by the court itself, unless suitable agencies are not or can not be made available for this type of service.

7. The court should be authorized to order the parents of children committed to the care of agencies or institutions to contribute to the support of the children.

8. When its jurisdiction does not include offenses by adults against children, it should be the responsibility of the juvenile court to see that proceedings are initiated in other courts whenever such action is advisable. There should be close coöperation in these cases between the juvenile court, the prosecuting authorities, and the criminal court, and the juvenile court should use all possible means of protecting child witnesses in other courts.

VII. *PROBATION AND SUPERVISION*

1. The probation staff should be appointed by the judge from an eligible list secured by competitive examination, subject to approval by a supervising board or commission.

2. The minimum qualifications of probation officers should be as follows:

(a) Education: Preferably graduation from college or its equivalent, or from a school of social work.

(b) Experience: At least one year in case work under supervision.

(c) Good personality and character; tact, resourcefulness, and sympathy.

3. The compensation of probation officers should be such that the best types of trained service can be secured. The salaries should be comparable with those paid to workers in other fields of social service. Increases should be based on records of service and efficiency.

4. Not more than 50 cases should be under the supervision of one probation officer at any one time. Officers handling girls' cases should be assigned a smaller number.

5. If volunteer service is used, the persons performing such service, or the executive of the organization of volunteers, should be directly responsible to the court.

6. Girls' cases should always be assigned to women officers; cases of boys under 12 years may be assigned to women officers, but all cases of boys 12 years of age and over should be assigned to men.

7. The district system is frequently an economical method of assignment, but fitness of particular officers for special kinds of work must also be taken into account.

8. A definite plan for constructive work, even though it be tentative, should be made and recorded in each case and should be checked up at least monthly in conference with the chief probation officer or other supervisor.

9. A general minimum probation period of from six months to one year is desirable, but exceptions should be allowed on recommendation of the supervisor or chief probation officer. The length of probation in each case should be determined by study of the case, needs disclosed, and progress made.

10. Reporting by a child to a probation officer at regular intervals should be required only if it seems clearly to be for the good of the probationer, and should never be made a substitute for more constructive methods of case work. When rightly safeguarded, reporting gives opportunity for acquaintance with the child, and free conversation regarding his interests and surroundings, and is a means of training in habits of regularity and punctuality.

11. Regular reporting should usually be limited to delinquent boys over 12 years of age, and they should report at a suitable place away from court and approved by the judge or chief probation officer. Mingling of boys reporting should be avoided through using different days in the week and fixing a certain time for each child to report.

12. Except in rare cases, home visits at least once every two weeks are essential to effective supervision, knowledge of the assets and liabilities of the family, and correction of unfavorable conditions.

13. In probation work due consideration should be given to language, racial psychology, and religion.

14. Reconstructive work with the family should be undertaken whenever necessary, either by the probation officer himself or in coöperation with other social agencies. Whenever other agencies can meet particular needs their services should be enlisted. In cases in which two or more agencies are concerned with the same family frequent conferences are necessary for good team work.

15. Special detailed school reports for each child on probation are advisable. The educational authorities should be requested to coöperate through weekly reports, frequent conferences, and other means; but care should be taken to preserve harmony, faith, and good will between the teacher and pupil, the probationer and probation officer.

16. The probation officer should assist and guide children of working age in the choice of a vocation.

17. Whether or not an employer should be informed with reference to the child's delinquency depends on the type of employer. Tact and judgment should be used in protecting the interests of both the employer and the child.

18. Planning for the "spare time" or recreation of probationers is a very important part of a probation officer's functions.

19. In rural communities it is often practicable and desirable to combine probation work with other types of social service. The form of combination and the division of work will vary according to local conditions and needs. The probation officer, however, should not hold other office in relation to the court, nor an office identified with the prosecution of cases, such as clerk of the court, police officer, or sheriff. Reporting of probationers is usually not practicable, and it may be necessary to use volunteer aid to a larger extent than in urban communities. Volunteer workers should be carefully selected and should be under the supervision of a paid officer. Emphasis should be placed on the strict accountability to the court of all officers, paid and unpaid, doing probation work. The officers should be provided with adequate means of transportation.

20. Supervision of the work of probation officers should be exercised by a State commission or board, either specially created or definitely charged with this duty, or by a State supervisory officer. The supervision should be advisory both to the probation officers and the courts as to all features of the service, but with power to require the keeping of prescribed records and to compel periodical reports to the supervisory board or officer.

VIII. *RECORDS*

1. Every juvenile court should have a record system which provides for—

(a) The filing of the necessary legal records.

(b) The filing of social records covering the investigation of the case, the study of the child, and the work done by the officers of the court and the probation staff. These social records should be deemed privileged and confidential records of the court, and should be at all times safeguarded from indiscriminate public inspection.

2. The filing system should be such as to permit ready identification of cases.

3. The records of the social investigation and the study of the child should include all the facts necessary to a constructive plan of treatment.

4. The records of supervision should show the constructive case work planned, attempted, and accomplished, and should give a chronological history of the supervisory work.

5. The court should compile annually statistical information which will show the problems dealt with and the results.

6. In order that it may be possible to compile information covering a period of years and to compare the work of one court with that of others it is essential that uniform terminology and methods of statistical tabulation and presentation of fundamental items be agreed upon. By this means only can significant social data concerning the prevention and treatment of juvenile delinquency and neglect be obtained.

Appendix II

A STANDARD JUVENILE-COURT LAW[1]

AN ACT

TO ESTABLISH JUVENILE COURTS, DEFINING THEIR JURISDICTION, POWERS AND DUTIES, AND REGULATING PROCEDURE THEREIN

ARTICLE I—ESTABLISHMENT; JURISDICTION

Section 1. *Purpose and basic principle.* The purpose of this act is to secure for each child under its jurisdiction such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the state; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents.

The principle is hereby recognized that children under the jurisdiction of the court are wards of the state, subject to the discipline and entitled to the protection of the state, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them.

Sec. 2. *Construction of the act.* This act shall be liberally construed to accomplish the purpose herein sought.

Sec. 3. *Definitions.* 1. Whenever the words "the court" are used in this act, they mean the juvenile court[2] established by this act.

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[1] Prepared by the Committee on Standard Juvenile Court Laws Appointed by the National Probation Association, May, 1923, to prepare an act to conform in general with the "Juvenile-Court Standards." Adopted by the annual conference of the Association held in Denver in June, 1925.

The Committee on Standard Juvenile Court Laws consisted of Judge Franklin Chase Hoyt (Chairman), Judge Mary M. Bartelme, Judge Frederick P. Cabot, Bernard Flexner, Judge Charles W. Hoffman, Judge Henry S. Hulbert, Judge James Hoge Ricks, Dr. Miriam Van Waters, Judge Edward F. Waite and Charles L. Chute (Secretary).

Courtesy of the National Probation Association.

[2] Or the court may be designated throughout the act as "The Juvenile and Domestic Relations Court," "The Juvenile and Family Court," "The Domestic Relations Court," or "The Family Court."

The words "the judge" mean the judge of the juvenile court.

The word "child" means a person less than eighteen years of age.

The word "adult" means a person eighteen years of age or older.

The singular shall be construed to include the plural and the plural the singular, when consistent with the intent of the act.

2. The words "delinquent child" include:

(a) A child who has violated any law of the state or any ordinance or regulation of a subdivision of the state.

(b) A child who by reason of being wayward or habitually disobedient is uncontrolled by his parent, guardian or custodian.

(c) A child who is habitually truant from school or home.

(d) A child who habitually so deports himself as to injure or endanger the morals or health of himself or others.

3. The words "neglected child" include:

(a) A child who is abandoned by his parent, guardian or custodian.

(b) A child who lacks proper parental care by reason of the fault or habits of the parent, guardian or custodian.

(c) A child whose parent, guardian or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care or other care necessary for the health, morals or well-being of such child.

(d) A child whose parent, guardian or custodian neglects or refuses to provide the special care made necessary by the mental condition of the child.

(e) A child who is found in a disreputable place or who associates with vagrant, vicious or immoral persons.

(f) A child who engages in an occupation or is in a situation dangerous to life or limb or injurious to the health or morals of himself or others.

4. The words "dependent child" include:

(a) A child who is homeless or destitute or without proper support, but who is not a neglected child as defined above.

(b) A child who lacks proper care by reason of the mental or physical condition of the parent, guardian, or custodian.

Sec. 4. *Establishment of juvenile courts.* There is hereby established in each county of the state a court of record to be known as the juvenile court, having such jurisdiction as may be necessary to carry out the provisions of this act.

Sec. 5. *Jurisdiction.* 1. *Children.* The court shall have exclusive original jurisdiction in proceedings:

(a) Concerning any child residing within the county who is (1) delinquent, (2) neglected, (3) dependent, or (4) mentally defective or mentally disordered.

(b) Concerning any person residing within the county charged with having violated any law of the state or ordinance of a subdivision thereof prior to having become eighteen years of age.

(c) To determine the paternity of any child alleged to have been born out of wedlock and to provide for the support and disposition of such child in case such child or its mother is residing within the county.

(d) To determine the custody or guardianship of any child residing within the county.

(e) For the adoption of children in case the adopting parents are residing within the county.

Provided, that the court shall have concurrent jurisdiction in any of the cases mentioned in subdivisions (a), (b), (c) and (d) above in which either the child or the parent, guardian or custodian or the alleged father of an illegitimate child is at the time present within the county but not residing therein.

Nothing contained herein shall deprive courts of general jurisdiction of the right to determine the custody of children upon writs of habeas corpus, or when such custody is incidental to the determination of causes pending in such courts. Such courts of general jurisdiction may, however, decline to pass upon such questions of custody or to issue such writs and may certify said questions or writs to the juvenile court for hearing and determination.

When jurisdiction shall have been obtained by the court in the case of any child, such child shall continue for the purposes of this act under the jurisdiction of the court until he becomes twenty-one years of age, unless discharged prior thereto by the court.

2. *Adults.* The court shall have original jurisdiction to determine all cases of adults charged (a) with contributing to, encouraging, or tending to cause, by any act or omission the delinquency, neglect or dependency of any child; or (b) with any act or omission with respect to any child, which act or omission is a violation of any state law or municipal ordinance; or (c) with desertion, abandonment or failure to provide subsistence. Where the offense charged amounts to a

felony the jurisdiction shall be concurrent; otherwise it shall be exclusive.

ARTICLE II—PROCEDURE IN CHILDREN'S CASES

Sec. 6. *Information; investigation; petition.* Any person having information that a child is within the provisions of this act may give such information to the court, and any peace officer having such information shall give it to the court. Thereupon the court shall make a preliminary inquiry to determine whether the public interests or the interests of the child require that further action be taken. Whenever practicable such inquiry shall include a preliminary investigation of the home and environmental conditions of the child, his previous history, and the circumstances of the condition alleged. The preliminary investigation shall be reported in writing. If the court shall determine that formal jurisdiction should be acquired, it shall authorize a petition to be filed.

The petition shall be verified under oath, alleging briefly the facts which bring said child within the provisions of this act. The petition shall also state (1) the name, age and residence of the child; (2) the names and residences of his parents; (3) the name and residence of his legal guardian, if there be one; (4) the name and residence of the person or persons having custody or control of the child, and (5) the name and residence of the nearest known relative, if no parent or guardian can be found. If any of the facts herein required are not known or cannot be ascertained by the petitioner, the petition shall so state.

Sec. 7. *Issuance of summons; notice; custody of the child.* After a petition shall have been filed and after such further investigation as the court may direct, unless the parties hereinafter named shall voluntarily appear, the court shall issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so summoned shall be other than the parent or guardian of the child, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed, by personal service at least twenty-four hours before the hearing, except as hereinafter provided. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

In any case in which a petition has been filed, if it appears from the petition that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the judge may cause to be endorsed upon the summons an order that the officer serving the same shall at once take the child into custody.

Sec. 8. *Service of summons; traveling expenses.* Service of summons shall be made personally by the delivery of a true and attested copy thereof to the persons summoned; provided, that if the judge is satisfied that it is impracticable to personally serve such summons or the notice provided for in the preceding section, he may make an order providing for the service of the summons or notice by registered mail addressed to their last known addresses or by publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if service is effected at any time before the time fixed in the summons for the return thereof.

Service of summons, process or notice required by this act may be made by any suitable person under the direction of the court. The judge may authorize the payment of necessary traveling expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the provisions of this act, and such expenses when approved by the judge shall be a charge upon the county.

Sec. 9. *Failure to obey summons; warrant.* If any person summoned as herein provided shall fail without reasonable cause to appear, he may be proceeded against for contempt of court under and in accordance with the provisions of the general statutes. In case the summons cannot be served or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued against the parent or guardian or against the child himself.

Sec. 10. *Release of children taken into custody.* Whenever any officer takes a child into custody, he shall, unless it is impracticable or has been otherwise ordered by the court, accept the written promise of the parent, guardian or custodian to be responsible for the presence of such child in the court at the time fixed. Thereupon such child may be released in the custody of the parent, guardian or custodian, or in the custody of a probation officer or other person designated by the court. If not so released, such child shall be taken immediately to the place of detention designated by the court, and the officer taking him shall immediately notify the court and shall file a petition when directed to do so by the court.

In the case of any child whose custody has been assumed by the court and pending the final disposition of the case, the child may be released in the custody of a parent, guardian or custodian, or of a probation officer or other person appointed by the court, to be brought before the court at the time designated. When not released as herein provided, such child, pending the hearing of the case, shall be detained in such place of detention as shall be designated by the court, subject to further order.

Nothing in this act shall be construed as forbidding any peace officer, police officer or probation officer from immediately taking into custody any child who is found violating any law or ordinance, or who is reasonably believed to be a fugitive from his parents or from justice, or whose surroundings are such as to endanger his health, morals or welfare, unless immediate action is taken. Provided, that in every such case the officer taking the child into custody shall immediately report the fact to the court and the case shall then be proceeded with as provided in this act.

Sec. 11. *Transfer from other courts.* If during the pendency of a criminal or a quasi-criminal charge against any person in any court, it shall be ascertained that said person was under the age of eighteen years at the time of committing the alleged offense, it shall be the duty of such court to immediately transfer such case, together with all the papers, documents and testimony connected therewith to the juvenile court having jurisdiction. The court making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile court or to that court itself, unless the court making such transfer shall release such child in the custody of some suitable person to appear before the juvenile court at a time designated in said order. The juvenile court shall thereupon proceed to hear and dispose of such case in the same manner as if it had been instituted in that court in the first instance.

Sec. 12. *Waiver of Jurisdiction.* If it is charged that a child before the court has committed an offense which under the statutes would amount to a felony in the case of an adult and the child is sixteen years of age or older, the judge, after full investigation and if he shall deem it to be for the best interests of the child and the state, may waive jurisdiction, whereupon such child shall be tried in the court which would have jurisdiction of such offense if committed by an adult; provided, that such court may exercise the powers conferred upon the juvenile court in this act in conducting and disposing of such case.

Sec. 13. *Hearing; judgment.* The court may conduct the hearing in an informal manner, and without observing the usual requirements of criminal or civil procedure. The court may adjourn the hearing from time to time. During such adjournment the child may be placed in the custody of his parent, guardian or other fit person and may be placed under the supervision of a probation officer, or may be held in the place of detention designated by the court.

If the court shall find that the child is delinquent, neglected, dependent, or otherwise within the provision of this act, it may by order duly entered proceed as follows:

1. Place the child on probation or under supervision in his own home or in the custody of a relative or other fit person, upon such terms as the court shall determine;
2. Commit the child to a suitable public institution or agency or to a suitable private institution or agency incorporated under the laws of the state, approved by the state board of public welfare [1] and authorized to care for children or to place them in suitable family homes;
3. Make such further disposition as the court may deem to be for the best interests of the child.

Every order made under this section shall be based on a finding of fact, entered of record.

No adjudication upon the status of any child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of a crime in any court, except as provided in section 12 of this act. The disposition of a child or any evidence given in the court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence be held against the child's record in any future civil service examination, appointment or application.

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[1] Or other appropriate state department supervising or licensing private institutions or agencies.

Whenever the court shall commit a child to any institution or agency it shall transmit with the order of commitment a summary of the information available to the court in relation to such child.

Sec. 14. *Modification of judgment; return of child to parents.* An order or commitment made by the court in the case of a child shall be subject to modification or revocation from time to time.

A parent, guardian, or next friend of a child who has been committed by the court to the custody of an institution, agency or person, may at any time file with the court a petition, verified under oath, stating that application for the release of the child has been made to and denied by such institution, agency or person, or that such institution, agency or person has failed to act upon such application within a reasonable time. A copy of such petition shall be served by the court upon such institution, agency or person, whose duty it shall be to file a reply to the same within five days. If, upon examination of the petition and reply, the court is of the opinion that an investigation should be had, it may, upon due notice to all concerned, proceed to hear the facts and determine the question at issue. It may thereupon order that such child be restored to the custody of its parent or guardian or be retained in the custody of the institution, agency or person and may direct such institution, agency or person to make such other arrangements for the child's care and welfare as the circumstances of the case may require, or the court may make a further order or commitment.

Sec. 15. *Appointment of guardians.* Whenever in the course of a proceeding instituted under this act it shall appear to the court that the welfare of a child will be promoted by the appointment of a guardian of its person, the court shall have jurisdiction to make such appointment. The court shall cause a summons to be issued and served upon the parents of such child, if they can be found, in such manner and within such time prior to the hearing as the court may deem reasonable. In the appointment of such guardian the court shall be governed by the provisions of law relating to the appointment of guardians. In a case arising under this act the court may determine whether the father or mother or other person shall have the custody and control of said child.

Sec. 16. *Selection of custodial agency.* In committing a child to a private institution or other custodial agency, or in placing a child under the guardianship or custody of any person other than its parent, the court shall, when practicable, select a person, or an institution or agency governed by persons of like religious faith as that of the parents of such child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child, or if the religious faith of the child is not ascertained, then of either of the parents as the court may deem suitable.

Sec. 17. *Support of child committed to a custodial agency.* Whenever a child is committed by the court to custody other than that of its parent and no provision is otherwise made by law for the support of such child, compensation for the care of such child, when approved by order of the court, shall be a charge upon the county or the appropriate subdivision thereof.[1] But the court may, after giving the parent a reasonable opportunity to be heard, adjudge that such parent shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child, and if such parent shall wilfully fail or refuse to pay such sum he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence.

ARTICLE III—PROCEDURE IN CASES OF ADULTS

Sec. 18. *Procedure in adult cases.* All provisions of this act relative to procedure in cases of children, so far as practicable shall be construed as applying to cases against adults also, when not inconsistent with other provisions of law relating to the conduct of adult cases. Proceedings may be instituted by an interested party or upon the court's own motion, and a reasonable opportunity to appear shall be afforded the respondent. The court may issue a summons, or in order to secure or to compel the attendance of any necessary person, a warrant of arrest or other process. Upon the trial of such cases the court shall have the power to impose such sentence as the law provides, or may suspend sentence and place on probation, and by order impose upon such adult such duty as shall be deemed to be for the best interests of the child or other persons concerned.

Sec. 19. *Proceedings for the support of dependents.* In the case of an adult found guilty of desertion, abandonment or failure to provide subsistence or care for any person for whose maintenance or care such adult is legally responsible, the court may inquire into and determine the ability of such adult to provide for the maintenance or care of such person and may direct when, how and where money for such maintenance or care shall be paid; and in the event that such person ordered to pay such money shall wilfully, and without just excuse, fail or refuse to pay the same in accordance with the court's order, said person shall be dealt with in accordance with the provisions of law relating to desertion or failure to provide subsistence, or such adult may be proceeded against as for contempt of court. If a child has property in the hands of a guardian or trustee, the guardian or trustee may be required to pay for his education and maintenance in connection therewith, so long as there may be funds for that purpose.

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[1] The city or town would be specified in some states.

ARTICLE IV—APPOINTMENT OF JUDGES AND EMPLOYEES; PROBATION

Sec. 20. *Appointment of judges.* In each county of the state containing a population of 100,000 or more there shall be appointed by the governor within sixty days after this act shall have become effective a judge of the juvenile court of such county. Such judge shall serve for a term of ten years and until his successor is appointed and confirmed, and shall receive such salary, payable by the board of county commissioners[1] as such board shall determine, which, however, shall be not less than $——— per annum.

In each county containing a population of less than 100,000 persons, the board of county commissioners[1] may submit to the electors at a regular or special election the question: "Shall there be appointed a special judge of the juvenile court?" If such question shall be decided by a majority vote in the affirmative such judge shall be appointed and shall serve in the same manner as provided for counties of over 100,000 population. In other counties the judge of the ———[2] court shall be judge of the juvenile court of such county and shall receive such additional compensation therefor as the board of county commissioners[1] shall determine, which shall not, however, be less than $——— per annum.

Sec. 21. *Appointment and removal of probation officers and other employees.* The judge of the court in each county shall appoint a chief probation officer and as many probation officers and other employees as shall be necessary. Probation officers who are to receive salaries and other employees so far as practicable, shall be appointed from eligible lists secured through competitive examination. The examinations given for the purpose of establishing eligible lists for appointment as probation officers shall have reference to education, previous experience, ability, personality, character and special aptitude for the work. Probation officers and other employees shall receive such salaries and expenses as the judge shall determine, subject to the approval of the board of county commissioners.[1] The chief probation officer, the probation officers and other employees appointed to serve under the supervision of the chief probation officer shall constitute the probation department of the court. All employees may be removed by the judge.

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[1] Or appropriate fiscal authority of the county.

[2] The appropriate court having general chancery and criminal jurisdiction.

Sec. 22. *Duties and powers of the probation department.* The chief probation officer, under the direction of the judge, shall have charge of the work of the probation department and shall supervise the work of the probation officers. It shall be the duty of the probation department to make such investigations as the court may direct, to keep a written record of such investigations and to submit the same to the judge, or to deal with them as he may direct. Upon the placing of any person on probation, the probation department shall furnish to such person a written statement of the conditions of probation and shall instruct him regarding the same. Such department shall keep informed concerning the conduct and condition of each person on probation under its supervision and shall report thereon to the judge as he may direct. Each probation officer shall use all suitable methods to aid persons on probation and to bring about improvement in their conduct and condition. The probation department shall keep full records of its work; it shall keep accurate and complete accounts of money collected from persons under its supervision, shall give receipts therefor and shall make reports thereon as the judge may direct. Probation officers for the purposes of this act shall have the powers of police officers.

Sec. 23. *Appointment of referees.* The judge may appoint a probation officer or other suitable person to act as referee of the court to hear cases coming within the provisions of this act. Such referee shall hold office during the pleasure of the judge. The hearing of any case may be referred to such referee by order of the court, or the judge may direct that all cases of a certain class or within a district to be designated by him shall be initiated before and heard in the first instance by such referee in the manner provided for the initiation and hearing of cases by the court. In all cases coming before him a referee shall comply with the requirements of and conform to the procedure provided for the hearing of such cases by the court. Upon the conclusion of the hearing in each case the referee shall transmit to the court all papers relating to the case, together with his conclusions and recommendations in writing. In case no hearing by the court is requested as hereinafter provided for, the conclusions and recommendations of the referee, when confirmed by an order of the court, shall become the judgment of the court. A hearing by the court shall be allowed to any person, or to the parent, guardian or custodian of any child, whose case has been heard by a referee, upon the filing by such person of a request for such hearing with the court within two days after the conclusion of the hearing before the referee.

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[1] Or appropriate fiscal authority of the county.

ARTICLE V—GENERAL PROVISIONS

Sec. 24. *Physical and mental examinations.* The court may cause any person coming under its jurisdiction to be examined by a physician, psychiatrist or psychologist, appointed by the court, in order that the condition, special needs and personality of such person may be given due consideration in the disposition of the case.

Sec. 25. *Treatment of children in need of special physical or mental care.* Whenever a child concerning whom a petition has been filed appears to the court to be in need of medical or surgical care a suitable order may be made upon the parent, guardian or custodian to provide treatment for such child by a competent physician in a hospital or otherwise. If such parent, guardian or custodian fails to provide such care the court may, after due notice, enter an order therefor and the expense thereof, when approved by the court, shall be a charge upon the county; but the court may adjudge that the person or persons having the duty under the law to support such child pay part or all of the expenses of such treatment in the manner provided in section 17 of this act.

If it shall appear to the court that any child concerning whom a petition has been filed is mentally defective or mentally disordered, it may cause such child to be examined by two qualified physicians and on their written statement that such child is mentally defective or mentally disordered, the court may commit such child to an appropriate institution authorized by law to receive and care for mentally defective or mentally disordered children. The parent, guardian or custodian shall be given due notice of any proceedings hereunder.

Sec. 26. *Place of detention.* No child coming within the provisions of this act shall be placed in any prison, jail, lockup, police station, vehicle or other place, where such child can come in contact with any adult convicted of crime or under arrest and charged with crime; provided, that a child sixteen years of age or older, whose habits or conduct are deemed such as to constitute a menace to other children, may, by order of the court, be restrained in a jail or other suitable place of detention, but in a room or ward entirely separate and apart from adults. Provision shall be made for the temporary detention of children in a detention home to be conducted as an agency of the court or the court may arrange for the boarding of such children temporarily in a private home in the custody of some fit persons, subject to the supervision of the court, or may arrange with any incorporated institution or agency, maintaining a suitable place of detention for children, that such institution or agency shall receive for temporary care children within the jurisdiction of the court.

In case a detention home is established as an agency of the court it shall be furnished and carried on, as far as possible, as a family home in charge of a superintendent or matron who shall reside therein. The judge may appoint a superintendent, a matron and other necessary employees for such home in the same manner as is provided for the appointment of other employees of the court, their salaries to be fixed and paid in the same manner as the salaries of other employees. The necessary expenses incurred in maintaining such detention home shall be paid by the county.

In case the court shall arrange for the board of children temporarily detained in private homes or institutions a reasonable sum to be fixed by the court for the board of such children shall be paid by the county.

Sec. 27. *Court sessions; quarters.* In the hearing of any case the general public may be excluded and only such persons admitted as have a direct interest in the case. All cases involving children shall be heard separately and apart from the trial of cases against adults.

Sessions of the court shall be held at such places throughout the county as the judge shall from time to time determine. Suitable quarters shall be provided by the board of county commissioners [1] for the hearing of cases and for the use of the judge, the probation officers and other employees of the court.

Sec. 28. *Records; forms.* The court shall maintain complete records of all cases brought before it. Such records shall be withheld from indiscriminate public inspection but shall be open to inspection by the parent or other authorized representative of the person concerned and, in the discretion of the court, by other persons having a legitimate interest. The court shall devise and cause to be printed such forms for records and such other papers as may be required in dealing with cases coming within this act. All expenses incurred in complying with the provisions of this act shall be a county charge.

Sec. 29. *Rules.* The court shall have power to frame and publish rules of procedure and for the conduct of officers and employees of the court.

Sec. 30. *Coöperation.* It is hereby made the duty of every county, town or municipal official or department in such county to render all assistance and coöperation within his or its jurisdictional power which may further the objects of this act. All institutions or other agencies to which any child coming within the provisions of this act may be sent are hereby required to give to the court or to any officer appointed by it such information concerning such child as said court or officer may require. The court is authorized to seek the coöperation of all societies or organizations, public or private, having for their object the protection or aid of children.

Sec. 31. *Contempt.* Any person who wilfully violates, neglects or refuses to obey or perform any order of the court may be proceeded against for contempt of court, under the general statutes.

Sec. 32. *Jury trial.* The court shall hear and determine all cases of children arising under the provisions of this act without a jury. If an adult is charged with an offense for which he is entitled to a trial by jury, and if he shall so demand, a jury shall be selected in accordance with the provisions of law regulating the selection of juries in the——— [2] court.

Sec. 33. *Appeals.* In the case of a child an appeal to the ——— [3] court may be taken by the party aggrieved in the manner provided by law or by rule of court for appeals in chancery cases. In any case against an adult an appeal may be taken to the ——— [1] court, in the manner provided by law or by rule of court for appeals in criminal cases. Written notice of such appeal shall be filed with the juvenile court within five days after the entering of the order. An appeal, with or without bail, in the case of a child, shall not suspend the order of the juvenile court, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child shall have been committed, unless that court shall so order. If the ——— [1] court does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the juvenile court and remand the child to the jurisdiction of the juvenile court for supervision and care, and thereafter the child shall be and remain under the jurisdiction of the juvenile court in the same manner as if such court had made said order without an appeal having been taken.

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[1] Or appropriate fiscal authority of the county.

[2] The name of the court to be inserted will vary from state to state.

[3] Name of the proper appellate court to be inserted for each state.

Sec. 34. *Constitutionality.* If any section, subdivision or clause of this act should be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the act.

Sec. 35. *Laws repealed.* . . .

Sec. 36. *Time of taking effect.* This act shall take effect. . .

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[1] Name of the proper appellate court to be inserted for each state.

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The sign dagger † signifies that the reference is a pamphlet or has been reprinted as such. Most of them are obtainable from the National Probation Association or other appropriate agencies either free of charge or at a nominal cost.

This bibliography is intended to include all important books, leading pamphlets, recent magazine articles, selected conference papers, official and unofficial reports and other publications on juvenile courts and related subjects. What is listed herein is believed to be of practical value to students, judges, probation officers and workers in allied fields. Those desiring a more detailed bibliography on periodical literature should consult the list of references on juvenile courts and probation published by the United States Children's Bureau in 1923. A recent and admirable bibliography covering a wider field is that compiled by the National Probation Association and published in its conference proceedings of 1925 and also in pamphlet form.

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